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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

भाग II—खण्ड 3—उपखण्ड (ii)

PART II—Section 3—Sub-section (ii)

(अन्य संश्लेषण को छोड़कर) भारत सरकार के संश्लेषणों और (तत्त्व क्षेत्र प्रशासन को छोड़कर) केन्द्रीय प्राधिकरणों द्वारा जारी किए गए विधिक आदेश और अधिसूचनाएं।

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories)

ELECTION COMMISSION, INDIA

New Delhi, the 13th November 1967

S.O. 4404.—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the order pronounced on the 23rd October, 1967, by the High Court of Madhya Pradesh, Indore Bench, Indore, in Election Petition No. 43 of 1967.

HIGH COURT OF MADHYA PRADESH, INDORE

ELECTION PETITION CASE No. 43 of 1967

| | |
|-----------------------------------|---|
| <i>Applicant</i> | <i>Opposite party</i> |
| Suriya Prasad s/o Hariram | Atamdas s/o Jiwan Das |
| R/O 91. Khedapati Colony, Gwalior | Jatav R/O Hem Singh Ki-Parade, Lashkar. |

Application for u/s 30A read with section 100 of the Representation of the People Act, 1951, by the petitioner calling in question the election of Shri Atamdas, a returned candidate from the Morena Reserved Lok Sabha Constituency No. 1 of the State of Madhya Pradesh.

Petition presented by Shri Suriya Prasad on 10th April, 1967.

The application coming on for final hearing on 28th September, 1967, before the Honourable Shri Justice M. A. Razzaque and the Honourable Shri Justice ** in the presence of Shri G. L. Ozha Counsel for the applicant, and of Shri A. P. Mishra with Shri K. L. Goyal Counsel for the opposite party, the following order was passed by the Court:—

ELECTION PETITION NO. 43 OF 1967

Suriya Prasad

v.

Atamdas

ORDER

By this election petition preferred under section 80A read with section 100 of the Representation of the People Act, 1951, as duly amended upto date (hereinafter called the Act) by the petitioner Shri Suriyaprasad of Gwalior, a defeated Congress-candidate, the election of the respondent Shri Atamdas of Lashkar, Gwalior, a successful independent candidate from the Morena Reserved Lok Sabha Constituency No. 1 of the State of Madhya Pradesh, has been challenged. The respondent was declared elected on 23rd February, 1967 from the said constituency and the main question involved in the case is whether on the date of his election, the respondent was not qualified or was disqualified to be chosen to fill the said seat under section 9A read with section 7(b) of the Act because of a Government contract said to be subsisting between him and the Central Government on the date of his election.

2. The admitted facts are that the petitioner and the respondent along with five others (and who have not been impleaded as co-respondents in this petition because the only prayer is to declare the respondent's election to be void) were the contesting candidates from the Morena Reserved Lok Sabha Constituency No. 1 of the State of Madhya Pradesh. During the course of the argument, it was admitted by both the parties that the last date for filing the nomination paper was 19th January, 1967. The respondent secured 1,18,167 votes and next to him the petitioner received about 38,000 votes and accordingly, the Returning Officer announced the result on 23rd February, 1967, at Morena declaring the respondent as returned candidate.

3. The further admitted facts are that the respondent, in the course of his trade or business entered into a contract on 25th February, 1954 for the "repairing work of Ratnawali Burj Raisen Fort" with the Department of Archaeology, Government of India at Bhopal. The contract was for Rs. 37,012 and the work was to be executed and completed within three months from 25th February, 1954, *vide* (Ex. P. 2), (P. 4-A) and (P. 4-B). This contract was the subject matter of the previous election petition No. 433 of 1957 and in that petition, the present petitioner as well as the respondent along with others were parties. That petition was decided by the Election Tribunal, Gwalior on 27th October, 1958 and the Tribunal there had held that on the date of the scrutiny of the nomination papers in the 1957-election, the contract was subsisting between the respondent and the Government of India and, therefore, the respondent suffered from the disqualification *vide* Ex. P. 11. The matter went up in appeal before the High Court of Madhya Pradesh as First Appeal No. 133 of 1958, decided on 13th July, 1959 and in that appeal, the above finding of the Tribunal was confirmed and it was also held that there was improper acceptance of the nomination paper of the respondent.

4. The petitioner's case is that even now there still subsists the said contract, namely, "repairing work of Ratanwali Burj Raisen Fort" entered into by the respondent on 25th February, 1954, with the Central Government for the execution of the said work and, therefore, he suffered from the said disqualification under section 9A of the Act and hence he was not fit to be chosen to fill the parliamentary seat from the Constituency in question. It is further alleged that the findings of the Election Tribunal in the previous election petition No. 433 of 1957 decided on 27th October, 1958, to the effect that there was such a subsisting contract; that the respondent suffered from the disqualification and that there was improper acceptance of the nomination paper of the respondent and confirmed by the High Court in First Appeal No. 133 of 1958, operate as *Nos judicata* against the respondent in this case. It was also alleged that the respondent's nomination paper was improperly accepted and the result of the election, in so far as, it concerns the returned candidate has been materially affected by such improper acceptance. Accordingly it was prayed that the election of the returned candidate i.e., respondent should be declared to be void under section 100 of the Act.

5. The respondent denied that the said contract between him and the Central Government subsisted either on the date of the scrutiny of the nomination paper or the date of his election or that it subsists at present. Accordingly, he denied that he suffered any disqualification under section 9A of the Act or that he was not fit to be chosen to fill the said parliamentary seat. He also denied that the findings of the Election Tribunal in the previous election petition and confirmed by the High Court in appeal in connection with 1957-election operate as *res judicata* in 1967-election i.e., the election in question. He has further denied that his nomination paper was improperly accepted or that the same has materially affected the result of the election. He assailed the petition as barred by time. Accordingly, he prayed that the election petition be dismissed.

6. On these pleadings of the parties, the following issues were framed and my findings thereon are as under:—

| Issues | Findings |
|---|--|
| (1)(a) Whether there still subsists a contract (repairing work of Ratnawali Burj Fort), entered into by the respondent on 25-2-1954 in the course of his trade and business with the Central Government for the execution of works undertaken by that Government as alleged by the petitioner? | Yes. |
| (b) Whether on this account he suffers disqualification under section 9A of the Representation of the People Act, 1951 and whether, therefore, he was not qualified on the date of the scrutiny of the nomination papers for being chosen to fill the Parliamentary seat in question as alleged by the petitioner? | Yes. Not qualified |
| (c) Whether the respondent's nomination paper was improperly accepted as alleged? | Yes. |
| (d) Whether the result of the election in so far as it concerns the returned candidate (respondent) has been materially affected by the improper acceptance of the nomination paper as alleged? | Election void. |
| * 2) Whether the findings of the Election Tribunal in Election Petition No. 433 of 1957 decided on 27-10-1958 in connection with the 1957 election to the effect that there was such a contract; that the respondent suffered from the disqualification and that there was improper acceptance of the nomination paper of the respondent and confirmed by the High Court in First Appeal No. 133 of 1958 decided on 13-7-1959 operate as <i>res judicata</i> in this case relating to 1967-election as alleged by the petitioner? | |
| (3) Whether the petition is barred by time as alleged by the respondent? | No. |
| (4) Should the election of the respondent be declared to be void? | Yes. |
| (5) Relief? | Petition allowed and election declared void. |

Reasons for the findings

7. *Issues 1(a) and (b).*—These are the main important issues in this case. The petitioner's case is that the Government contract dated 25th February, 1954 entered into by the respondent with the Central Government for the repairing work of the "Ratnawali Burj, Raisen Fort" still subsisted on the date of this election petition and, therefore, the respondent was disqualified under section 9A of the Act for being chosen as a member of the Lok Sabha from the constituency in question. 'Disqualified' as defined in section 7(b) of this Act means disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State. Section 9-A says that a person shall be disqualified if, and for so long as, there subsists a contract entered into by him in the course of his trade or business with the appropriate Government for the supply of goods to, or for the execution of any works undertaken by, that Government. Section 100(1)(a) of the Act provides that subject to the provisions of sub-section (2), if the High Court is of the opinion that on the date of his election a returned candidate was not qualified, or was disqualified,

to be chosen to fill the seat under the Constitution or this Act or the Government in the presence of Shri..... Counsel for the applicant, and of Shri R. K. Vijayavargiya Counsel for the opposite party, the following order was passed by the Court:—

8. It is not disputed that the respondent was an approved contractor at the relevant time, i.e., 1954 being on the approved list of contractors maintained by the Government and that the contract in question was entered into by him in the course of his trade or business. There is also no dispute that the Central Government in the Archaeological Department was responsible for the execution of the repairing works in question undertaken by it and, therefore, it was the appropriate Government. This Government has its Central Circle at Bhopal and the Raisen Fort of which the repairs in question were to be carried out is situated in the territory of the erstwhile State of Bhopal. There is also no dispute about the proper form in which the contract in question was entered. Thus the parties are agreed on the two important conditions of Section 9-A of the Act, namely, that the respondent entered into the contract in question in the course of his trade or business with the appropriate Government for the repairing works in question undertaken by that Government. So the only question that now arises for our consideration is whether this contract subsisted on 23rd February, 1967 when the respondent was declared elected to the Parliamentary seat from the Morena Reserved Lok Sabha Constituency No. 1.

9. In his case, parties have examined one witness each and filed certain documents from the Government file relating to the repairing work of the 'Ratnawali Burj, Raisen Fort' i.e. the contract in question, in support of their respective cases. The petitioner's witness Shri K. M. Shrivastava (P.W. 1) is the Deputy Superintendent Archaeologist, Archaeological Survey of India, Central Circle, Bhopal and he appeared with the files relating to the contract in question. He has been posted as Deputy Superintendent Archaeologist at Bhopal since 1st March, 1966. His evidence with reference to the documents from the Government files referred to above, shows that the contract in question entered into on 25th January, 1954 for Rs. 37,012 which was to be completed by the respondent within three months i.e., by 25th May, 1954 (as per Ex. P. 2 and P. 4) was not completed up to 27th August, 1959 (vide Ex. D.3). A specific question was put to him in the examination-in-chief whether he was in a position to state if the contract in question was fully completed by the respondent or not and his reply was that he was not posted at Bhopal at the relevant time but with reference to the Department's letter dated 20th June, 1957 (Ex. P. 5), he could say that till 20th June, 1957, the respondent had not completed the work and that whatever work he had executed was defective. A memorandum dated 7th April, 1959 (Ex. P. 6) was issued from the office of the Superintendent and it shows that the respondent had deposited Rs. 1850 as security with the Government against the contract in question and the witness has deposed that so far the said security has not been released. From the running bills in the files relating to the contract in question, the witness stated that the Department paid Rs. 27,656-9 upto 31st March, 1958 to the respondent for the part of the work executed by him.

10. In cross-examination, the witness was confronted with the letter (Ex. D. 1) dated 23rd July, 1958 issued from the office of the Director-General of Archaeology, New Delhi and he deposed that from the files he could say that the respondent did not seem to have executed the remaining part of the work in question after this letter (Ex. D. 1). He further deposed that the files brought by him do not show that any of the items given in the specification of the work (Ex. P. 4-B) to be carried out have remained incomplete except what has been stated in the letter dated 20th June, 1957 (Ex. P. 5). Further on he was confronted in cross-examination by Ex. D. 3, dated 27th August, 1959. This is a reply by the respondent to the Department's letter dated 11th August, 1959. In this letter, the respondent has clearly stated that "I want with all sincerity to finish the said work as early as possible...". Thus, it would be clear from this letter of the respondent that the contract in question had remained incomplete atleast till 27th August, 1959 and the respondent was keen to finish it as early as possible provided certain facilities were given to him by the Government.

11. As against this evidence, the respondent Shri Atamdas (R.W. 1) has deposed that he had fully and completely executed the contract in question relating to the repairing work of the 'Ratnawali Burj, Raisen Fort' in December, 1956 and thus he means to say that the said contract was not subsisting after 1956. He has further deposed that his name was struck off from the list of approved contractors in 1957 and since then, he did not take any contract either from the Government of India or from any Government Department till today for the execution of any work. In connection with the previous election petition, he

was examined as a witness on 13th November, 1957 and his deposition recorded in that case is Ex. P. 10. The portion marked A to A in Ex. P. 10 is to the effect that the repairing of the "Ratnawali Burj" was not completed till then by him and that full payment was also not made to him. When he was confronted with his statement, he admitted having made it but he tried to explain it by saying that in addition to the contractual work in question, he had executed other extra work and it was this extra work which had remained incomplete and, therefore, he said statement related to the non-completion of the extra work. It is true that the respondent had executed some extra work in addition to the contract in question during the year 1956-57 as would be clear from the Department's letter (Ex. P. 5) dated 20th June, 1957 and also admitted by Shri K. M. Shrivastava (P.W. 1) but it is absolutely wrong to say that the portion marked A to A in Ex. P. 10 relates to the non-completion of the extra work. It is abundantly clear from this very portion that this admission relates to the non-completion of the contract in question, namely, the repairing work of the 'Ratnawali Burj' For Raisen. Thus his own admission would establish that he had not completed the contract in question at least up to 13th November, 1957 when he was examined in the previous election petition.

12. He has also admitted before me that for the work which was executed by him in connection with the contract in question, he received the payment of about Rs. from the Department. This would also—establish that he had not fully executed and completed the contract in question because the said contract was for Rs. 37,012. Again he has admitted his application dated 27th August, 1959 (Ext. D. 3) which relates to the contract in question and as already stated, in that application he has clearly admitted that he was prepared to *finish* the said work as early as possible provided certain facilities were given to him. Therefore, this document itself clearly establishes that till 27th August, 1959, the contract in question was not completed or fully performed by the respondent. To the questions of the Court, he further admitted that neither he nor the Government brought any action against each other in connection with the repairing work of the 'Ratnawali Burj' in question. He went on to say that even today he has yet to receive about Rs. 10,000 or Rs. 12,000 from the Government in connection with the contract in question and though he made repeated demands from the Government in writing, till 1957-58, he received no payment till today. He also admitted that he did not file any suit against the Government to recover the alleged balance.

13. The substance of the evidence of these two witnesses coupled with the documents referred to above would show that the respondent had executed *only* a part of the work in connection with the contract in question entered into in 1954 and that the said contract remained incomplete atleast till 27th August, 1959. It is also clear that his security deposit Rs. 1,850 against this work was not released by Government and that he did not receive it till today. Also he has not filed any completion certificate to show that the said contract was fully performed by him. On the basis of these facts and circumstances it can be said with definiteness that atleast till 27th August, 1959 the respondent did not execute the full work and complete the contract in question. Then the question arises whether he completed the remaining part of the said contract at any time between 27th August, 1959 and the date of the filing of his nomination paper on 19th January, 1967 or its scrutiny or the declaration of his election on 23rd February, 1967 from the Constituency in question. Further his evidence shows that he has not received the balance about Rs. 10,000 from the Government till today in connection with the said contract.

14. On behalf of the petitioner, Shri Ojha urged that on the very admission of the respondent himself that full payment had not been made by the Government till today, it must be held that the contract in question has not been fully discharged by performance on both sides and, therefore, the same is still subsisting today. In support he relied on *Chaturbhuj Vithaldas Jasani v. Moreswar Parasram and others* (A.I.R. 1954 S.C. 236) and *Laliteswar Prasad Sahi v. Batashwar Prasad and others* (A.I.R. 1966 S.C. 583) in which the above ruling was followed. The case of *Chaturbhuj Vithaldas Jasani v. Moreswar Parasram and others* (*supra*) was decided under section 7(d) of the Act as it originally stood. In that case. Their Lordships of the Supreme Court observed that "a contract for the supply of goods does not terminate when the goods are supplied; it continues in being till it is fully discharged by performance on both sides. It cannot be said that the moment a contract is fully executed on one side and all that remains is to receive payment from the other then the contract terminates and a new relationship of debtor and creditor takes its place". This was followed in *Laliteswar Prasad Sahi*

v. *Bateshwar Prasad and others (supra)*, which was decided under section 7(d) of the Act as amended in 1958. In this case it was held that—

"A contract for the supply of goods or for the execution of any works or for the performance of any services undertaken does not cease to subsist only because the goods had been supplied or work had been executed or services performed. It continues to subsist till payment is made and the contract is fully discharged by performance on both sides."

In view of this authority, the respondent would have been at once out of Court if section 7(d) as amended in 1958 had not undergone a further change; and the change is that this section has been replaced by section 9-A read with section 7(b) of the Act or by the recent amendment of 1966. In the new section 9-A, an explanation has been added to make it clear that a contract with the Government shall be deemed not to subsist by reason only of the fact that the Government has not performed its part of the contract either wholly or in part if the contract has been fully performed by the person by whom it has been entered into with the appropriate Government. It is common ground that the case in question is governed by this new section 9-A read with section 7(b) of the Act and the contention of the respondent is that he has fully performed his part of the contract.

15. It would now be desirable to set out the old and the new statutory provisions on the point. The unamended section 7(d) as it originally stood was as under :—

"7. A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament or the Legislative Assembly or Legislative Council of a State...

(d) If, whether by himself or by any person or body of persons in trust for him or for his benefit or on his account, he has any share or interest in a contract for the supply of goods to, or for the execution of any works or the performance of any services undertaken by the appropriate Government."

As amended in 1958, the section read as under :—

"7. A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State...

(d) If there subsists a contract entered into in the course of his trade or business by him with the appropriate Government for the supply of goods to, or for the execution of any works undertaken by, that Government'.

As replaced in 1966 by sections 9-A and 7(b), these statutory provisions are as under :—

"9-A. A person shall be disqualified if, and for so long as, there subsists a contract entered into by him in the course of his trade or business with the appropriate Government for the supply of goods to, or for the execution of any works undertaken by, that Government.

Explanation.—For the purposes of this section, where contract has been fully performed by the person by whom it has been entered into with the appropriate Government, the contract shall be deemed not to subsist by reason only of the fact that the Government has not performed its part of the contract either wholly or in part."

"7(b) 'disqualified' means disqualified for being chosen as, and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State."

16. A comparison of these statutory provisions relating to disqualification would clearly show that the said provisions have undergone substantial changes from time to time and these changes have been effected to avoid the difficulties to which a contracting party may be subjected. The language of section 7(d) as it originally stood which provided for the disqualification in case of contracts with the Government was wide and probably vague enough to bring any kind and category of contract within its scope and the Parliament realised that it had been a fruitful source of election disputes in the past. The language was wide enough to include even the persons who only occasionally broadcast any talk from the Radio Station or contribute any article to any Government publication and such persons may come within the mischief of that section. Accordingly,

section 7(d) was amended in 1958 in a simpler and more rational way so as to bring within its purview only two categories of contracts entered into by a person with the Government in the course of his trade or business and these two categories were contracts for the supply of goods and contracts for the execution of any works. Even this change did not solve the case of a contractor, who has fully performed his part of the contract and Government did not perform its part either wholly or in part for one reason or the other. According to the decisions in the above two Supreme Court rulings, under section 7(d) as originally stood or amended in 1958, the contract continued to subsist till payment was made and the contract was fully discharged by performance on both sides.

17. The Parliament probably realised that an innocent contractor, who has fully performed his part of the contract should not be penalised if the Government did not perform its part. The dispute about the settlement of payment or actual payment by the Government to the Contractor may continue for years together; the amount involved may be even petty and in some cases payment may not be made or ordered till the life time of the contractors and in all these cases, the contractor who has fully performed his part of the contract would be disqualified to contest the election. There seemed no justification to penalise such an innocent party. Therefore, the explanation to section 9-A of the Act was added. The explanation says that for the purposes of this section (section 9-A) where a contract has been fully performed by the person by whom it had been entered into with the appropriate Government, the contract shall be deemed not to subsist by reason only of the fact that the Government has not performed its part of the contract either wholly or in part. The intention of the Legislature in adding this explanation is to avoid the rigour of the decisions in the two Supreme Court rulings referred to above. In view of this explanation, the learned counsel for the petitioner cannot avail of the decisions in the two Supreme Court rulings simply because no full payment as claimed by the respondent has been made by the Government.

18. Even then, the respondent is not out of the woods. In view of the facts and circumstances of the case, he shall have to establish that the contract in question has been fully performed by him, if he wants to avail of the Explanation to section 9-A. Shri Mishra, learned counsel for the respondent has urged before me that the respondent has fully performed his part of the contract and in the alternative he canvassed that the same was discharged by the breach committed by the Government, in case it is found that the contract was not fully executed by the respondent. According to him, by Ex. D. 1 dated 23rd July 1958, the Director General of Archaeology in India wrote to the Superintendent, Department of Archaeology, Central Circle, Bhopal that "the contractor should be told categorically that he is not to proceed with the work". In view of this, Shri Mishra urged that the Government of India committed breach of the contract on 23rd July, 1958 and, therefore, the contract in question must be deemed to have been discharged on 23rd July, 1958 and hence there subsisted no contract between him and the Government either on the date of filing the nomination paper i.e. 19th January, 1967 or its scrutiny or the declaration of the election result on 23rd February, 1967. These contentions were repudiated by Shri Ojha, learned counsel for the petitioner.

19. As already found, the statement of the respondent Shri Atamdas (R.W. 1) that he duly completed and fully performed the contract in question in December, 1956, is utterly incorrect. It has further been found that the said contract was not completed by him even till 13th November, 1957, when he was examined as a witness in the previous election petition case and he has suffered the finding in that case that the contract in question was subsisting even till 13th November, 1957. This is not all. In his reply dated 27th August, 1959, (Ex. D. 3), the respondent has clearly stated that—

"I want with all sincerity to finish the said work as early as possible....."

The words 'to finish the said work' are eloquent enough to establish that even till 27th August, 1959, he had not fully performed the contract in question. In view of all this, his statement that he has to relise a balance of about Rs. 10,000 from the Government of India in connection with the contract in question is not true for the simple reason that he has not fully performed his part of the contract. The net result, therefore, is that atleast till 27th August, 1959, the respondent had executed only part of the work in connection with the contract in question and that the said contract was not fully performed by him.

20. In these circumstances, it was for him to show whether after 27th August, 1959, he completed the remaining part of the work and if so when and in what manner. The respondent has not adduced any oral or documentary evidence

nor is there any material on record to show that he completed the remaining part of the work in question at any time till today after 27th August, 1959. In fact, according to his evidence, the said contract was fully performed by him by December, 1956, and this has been found to be absolutely incorrect. Further, his tender (Ex. P. 2) which was accepted on behalf of the President of India in connection with the contract in question shows that he "agreed to abide by and fulfil all the terms and provisions of the conditions contained in the pamphlet named 'General Directions and Conditions of Contract'....." and it further shows that all these terms and conditions were either read by him or explained to him. This pamphlet is in the relevant file of the Government, which is before me and it bears the respondent's signature. It has been marked as 'X' by me. The endorsement thereon shows that it was proved in the previous election petition. Among other conditions, the said pamphlet provides 'that the contractor shall complete the work within the stipulated time and if that is not done, then time may be extended for such completion on reasonable grounds; if the work executed is bad, imperfect or unskilful, the contractor shall be liable to remove this defect and in certain cases he shall also be liable to pay compensation in case of bad work; requiring the removal of defects from such imperfect or unskilful work will not be considered as an admission of the due performance of the contract'. It also provides that 'on completion of the work, the contractor shall be furnished with a final certificate. It further stipulates that in case of breach of any of the conditions of the contract, the Government will have option to adopt any of the courses mentioned therein including the course to rescind the contract and the security deposit of the contractor shall be forfeited. In case, a final certificate has been furnished to the contractor, then his security deposit shall be released and refunded to him.

21. In the present case, the respondent has not filed any final certificate in token of having fully performed the contract in question nor there is any evidence on record to show that the certificate was furnished to the respondent till today. It is also on record that the security deposit of Rs. 1,850 in connection with the contract in question has not been refunded to the respondent so far nor is there any material on record to show that Government forfeited it. Also paragraph 2 of Ex. D. 5, dated 20th June, 1957, from the Superintendent of the Bhopal Office to the Director General, New Delhi, in connection with the work in question, shows that—

"the work which is still incomplete was inspected by the Archaeological Engineer during 1957, and found to be defective. In view of his adverse comments, further work was discontinued and the work is still incomplete."

At the end of this document, the Superintendent also wrote that—

"the contractor on the other hand is very keen to finish the work and requests for further instructions."

We have seen above that the respondent did not complete the work in question and remove the defects atleast till 27th August, 1959, and he has adduced no evidence to show that these defects were removed and the work was completed at any time till today after 27th August, 1959. All these facts coupled with the facts that the respondent did not file the final certificate and non-refund of his security deposit clearly establish that till today the work in connection with the contract in question has not been completed by him. In other words, he has not fully performed his part of the contract till this day. Accordingly it follows that the contract in question was subsisting all along including on the date on which the election result of the Constituency in question was declared.

22. It was, however, urged by respondent's learned counsel that the said contract was discharged by rescission and came to an end on 23rd July, 1958, when the Government committed the breach. The argument is that the respondent was keen to perform the remaining part of the contract as indicated in Ex. P. 5 dated 20th June, 1957, in which the Bhopal Office communicated to the Delhi Office that "the contractor on the other hand is very keen to finish the work and requests for further instructions." That after this, the Delhi Office wrote to the Bhopal Office on 23rd July, 1958, as per Ex. D. 1 that—

"the contractor should be told categorically that he is not to proceed with the work."

On the basis of these two statements, it was urged that the Government committed the breach on 23rd July, 1958; that the respondent accepted this breach and rescinded the contract and thus the contract was discharged by breach and

came to an end on 23rd July, 1958. Accordingly, it was contended that the contract in question was not subsisting on any of the relevant dates in this case and hence the respondent did not suffer from the disqualification under section 9A read with section 7(b) of the Act. In support, he relied on *Gaurishankar Shastri v. Mayadhardas* (1959 J.L.J. 10).

23. This contention, at the very outset, suffers from some serious infirmities and drawbacks. It is hardly needful to say that rescission must be *pleaded definitely, clearly and in unequivocal terms*. Repudiation by one part standing alone does not terminate the contract. It takes two to end it, by repudiation on the one side and acceptance of the repudiation on the other. The party relying on rescission must expressly plead the manner in which and the date on which one party repudiated the contract, the date and the manner when and in which such repudiation was communicated to the other party; whether the other party accepted such repudiation and if so when and in what manner and it is then that, the other party is usually said to rescind the contract. Section 62 of the Indian Contract Act says that if the parties to the contract agree to substitute a new contract for it, or to rescind or alter it, the original contract need not be performed. This is not all. The rescission of the contract has to be communicated and this should be done in the manner as provided by section 66 of the Indian Contract Act. When all these conditions and essentials are complied with then the original contract comes to an end. The same conclusion would flow from *Gaurishankar's case* (*supra*) relied on by the learned counsel for the respondent where in paragraph 9 of the said authority, their Lordships observed as under:—

"A contract is discharged in various ways. One of such ways is the discharge of the contract by performance. One other way in which the contract is discharged is by breach by one of the parties and the rescission of the contract on accepting the breach by the other. That there are claims arising from or under the contract does not show that the contract itself is subsisting."

24. Almost the same thing has been stated at page 160 of Halsbury's Laws of England, Third edition, Volume 8, where the methods of discharge of contracts have been discussed in paragraph 274. It is as under:—

"274. *Four principal methods.*—There are four modes in which a contract may be discharged: (1) by agreement; (2) by performance, where all that the promisor undertook to do has been performed; (3) in certain cases where the promisor; (4) by breach, where the promisor has failed to perform his promise and the other party elects to treat the contract at an end. In addition a contract may be extinguished by statute."

Here in this case, the respondent's counsel relies on method No. 4 urging that the original contract had been discharged by rescission of the contract on accepting the breach.

25. In the present case, the respondent has not at all *pleaded* rescission in his written statement nor has he given any of the particulars of such a rescission on which now his counsel wants to rely. As already stated, the pleadings of the respondent on the point of rescission should have been definite, express, clear and unequivocal so that the other party were not taken by surprise but he has not pleaded anything like that at all. It is now an established law that the Court is called upon to decide that case which has been pleaded and so it cannot travel beyond the pleadings. If it were to do so, this would expose it to the charge that it has made out altogether a new case for a party which is not permissible in law. That being so, the contention that the original contract came to an end by rescission has to be rejected.

26. There is another aspect of the case. The case of the respondent himself is that he has fully performed his part of the contract by executing the entire work in question by December, 1956. He never says that he performed only part of the contract and the remaining part of it was rescinded by him. So his case is of full performance of the contract in question. It is the case of his counsel at the time of the argument that the contract was rescinded on accepting the breach and thus it was discharged on 23rd July, 1958. Such a position cannot be accepted and specially so when there are no pleadings whatsoever on the point.

27. There is still another aspect of the case. Assuming that the law of pleadings can be ignored on the point of rescission, let us see if the case of the respondent is, in any way, bettered in view of the material that has come on record.

The main plank of the argument of the respondent's counsel is that the statement to the effect that—

"the contractor should be told categorically that he is not to proceed with work."

is a clear repudiations of the contract and, therefore, the Government has committed the breach on 23rd July 1958 and the contract came to an end on this day by—rescission. In my opinion, this statement does not amount to repudiation of the contract on the part of the Government nor it can be said that the Government has refused to perform its promise. It is on record that part of the work which the respondent had executed was defective. The defects had not been removed inspite of instructions from time to time. It is very likely that the Engineers of the Government had to give instructions to the respondent on the spot about the particulars of the bad work and the manner in which the defects were to be removed. To this effect some indication can be had from the respondent's own reply dated 27th August 1959 (Ex.D-3). Accordingly, by merely asking the respondent not to proceed with the work, in such circumstances, would not amount to repudiation of the contract by the Government or refusal to perform its part.

28. Even if we assume that this was tantamount to repudiation then the question is whether such repudiation was communicated by the Government to the respondent and whether the letter accepted it as a breach of the contract. It is clear that the two statements referred to in Ex.P.5 dated 20th June 1957 and Ex.D-1 dated 23rd July 1958 relied upon by respondent's counsel, were exchanged between the Bhopal Office and the Delhi Office and not between these offices and the respondent. Therefore, it should have been established that the alleged repudiation or breach was communicated by either of these offices to the respondent, but there is not an iota of evidence on record to establish such communication to the respondent. Even if we were to rely on the presumption arising out of section 114(e) of the Indian Evidence Act that official acts have been regularly performed and thus presume that the Bhopal Office had communicated the said repudiation or breach to the respondent even then his case is not improved. As already stated, it must be shown that the respondent had accepted the said repudiation as breach of the contract and again there is not an iota of evidence on record to establish that the respondent accepted it as a breach. Even if he accepted it as a breach, the matter does not end here. He had to communicate his acceptance of the breach to the Government as contemplated by section 66 of the Indian Contract Act and on this point also, there is as evidence whatsoever on record to show that he communicated his acceptance of the said breach. All these facts taken collectively fail to establish that the respondent had accepted the alleged repudiation as breach of the contract in question and that he had rescinded the said contract. Accordingly, it cannot be said that the contract was treated as discharge by breach.

29. This is not all. The entire superstructure sought to be raised at the time of the argument on the ground of rescission is totally demolished by the respondent's own reply dated 27-8-1959 (Ex. D.-3). This document was brought on record by the respondent's counsel. Assuming that the statement in Ex.D.-1 dated 23rd July 1958 that the respondent should be told not to proceed with the work, amounts to repudiation of the contract on the part of the Government (or that the Government had refused to reform its promise) subsequently the respondent expressly stated in Ex. D.-3 dated 27th August 1959 that—

"I want all sincerity to finish the said work as early as possible."

These words clearly signify that he did not accept that repudiation as breach of the contract and did not put an end to it but on the other hand they signify his acquiescence in its continuance. Section 39 of the Indian Contract Act provides that—

"When a party to a contract has refused to perform or disabled himself from performing, his promise in its entirety, the promisee may put an end to the contract, unless he has signified, by words or conduct, his acquiescence in its continuance."

As already stated the respondent, by words in Ex. D. 3, dated 27th August, 1959, had signified his acquiescence in the continuance of the original contract is therefore, it clearly follows that he did not put an end to the said contract.

30. For all these reasons, the contention raised for the first time during the course of the argument that the contract in question was performed as discharged by breach is rejected.

31. Ex. D. 4 dated 22nd June, 1967, which is a letter by the Superintendent of the Bhopal Office to the respondent simply shows that the respondent's name is not in list of approved contractors since February 1957 and that no work had been assigned to him for execution since then. This is of no avail to the respondent because in the present case, we are concerned with the contract in question entered into by him in 1954 and not of any other contract either in 1957 or thereafter.

32. I am conscious of the cases in which neither party has insisted on the performance of the contract for an inordinate length of time and in such cases, it may be said that the parties have mutually abandoned the contract. In such a case, the contract may be treated as terminated or discharged by abandonment but a party relying on abandonment must expressly plead and give its particulars. I make it clear that at the time of the argument, the learned counsel for the petitioner did not canvas in this case that there was mutual abandonment of the contract in question by the parties. Even, had this ground been urged, it would not have been accepted for various reasons. Firstly because the petitioner has not specifically pleaded any such abandonment in his written statement; secondly because the respondent himself stated in the witness box that he fully performed the contract and executed the work in question completely by December, 1956; and thirdly because the contract entered into on 25th February, 1954, was to be fully completed within three months and yet it was completed only in part by August 1959 i.e. during the period of about 66 months and the remaining part remained incomplete. As already stated, there is not an iota of evidence on record to show that the respondent completed the remaining part at any time between August 1959 and the date of this petition filed on 10th April, 1967. There is also no evidence on record that during this period, the parties to the contract had mutually abandoned it. If a contract to be completed in three months could not be completed by August 1959 and so it was still subsisting then, there is nothing surprising if the respondent could not complete it by 1967 with the result that it is still subsisting even now. Therefore, had the contention regarding abandonment been raised at the time of the argument by the learned counsel for the respondent, that would have been of no avail to him in the circumstances of this case and in the face of the material and evidence that has come on record.

33. To conclude, it must be held that the respondent did not fully perform the contract in question (repairing work of 'Ratnawali', Raisen Fort) entered into by him on 25th February, 1954, till today and that the same has not been terminated or discharged in any of the manners known to law. I, therefore, hold that the said contract subsisted on the date of the filing of the nomination paper on 19th January, 1967 and its scrutiny and also on 23rd February, 1967, when the election result of the constituency in question was declared. In fact, it subsides even today. The respondent suffers from the disqualification under section 9A read with Section 10 of the Act and, therefore, he was not qualified or was disqualified for being chosen to fill the parliamentary seat in question. Accordingly, I decide issues 1(a) and (b) in the affirmative.

34. Issue No. 1(c).—In view of my above finding, it is clear that respondent's nomination paper was improperly accepted and so I decide this issue in the affirmative.

35. Issue No. 1(d).—The disqualification as contemplated by section 9A read with section 7(b) of the Act is absolute because such a disqualification is itself one of the grounds for declaring the election of a returned candidate to be void under section 100(1)(a) of the Act. As the respondent in this case, who is the returned candidate, suffered from this disqualification on the relevant date or dates, his election shall have to be declared as void and, therefore, the question that the election of the returned candidate was materially affected by improper acceptance of the nomination paper would, in fact, be irrelevant. I decide this issue accordingly.

36. Issue No. 2.—The learned counsel for the petitioner did not address any arguments on this issue at the time of the argument and, therefore, this ground must be deemed to have been given up and quite rightly. The facts and circumstances as existing in 1957 at the time of the previous election, on the basis of which the respondent was held to be suffering from disqualification under section 7(d) of the Act as unamended, are liable to change during the period of the years when the present election 1967 was held. A contract between the

contractor and the Government may subsist on the relevant dates in 1957 but such state of affairs may or may not exist in 1967 on account of the changes in between, and, therefore, what was decided in the previous petition on the basis of those facts may or may not hold good in 1967 because of the change in the circumstances. In fact, there was substantial change regarding the statutory provision relating to disqualification. As already stated, section 7(d) as originally stood was amended in 1958 and again in 1966. It was replaced by sections 9A and 7(b) of the Act with the addition of the explanation appended to Section 9A, the effect of which is to remove the rigour of the two Supreme Court rulings cited above. Such being the position, I hold that the findings reached in the previous election petition in connection with 1957 election would not operate as *res judicata* in this case relating to 1967 election. I, therefore, decide this issue in the negative.

37. *Issue No. 3.*—At the time of the argument, the learned counsel for the respondent did not press this issue and quite rightly. The election petition was filed on 10th April, 1967, while the election result was declared on 23rd February, 1967. Thus, it was filed on the 46th day. But 9th April, 1967, was a Sunday which has to be excluded. Accordingly, it was filed within 45 days from the date of the election of the returned candidate as required by Section 81 of the Act and, therefore, it was within time. Hence I decide this issue in the negative.

38. *Issue No. 4.*—The respondent was not qualified or was disqualified under the Act for being chosen to fill the parliamentary seat in question and, therefore, on this ground his election shall be declared to be void. I decide this issue in the affirmative.

39. *Issue No. 5.*—In the result, the petition is allowed. The respondent suffered from the disqualification under Section 9A read with Section 7(b) of the Act on the date of his election and in fact he still suffers from the said disqualification even today because the Government Contract entered into by him with the Central Government still subsists. Accordingly, his election from the Morena—Reserved Lok Sabha constituency No. 1 of the State of Madhya Pradesh is declared to be void under Section 98 read with Section 100(1)(a) of the Act. The respondent shall pay the costs of the petitioner and bear his own. Counsel's fee Rs. 250 for each side, if certified.

(Sd.) M. A. RAZZAQUE, Judge.

23-10-67

[No. 82 MP/43/67.]

New Delhi, the 20th November 1967

S.O. 4465.—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the orders pronounced on the 29th August, 1967 and 25th October, 1967, by the High Court of Madhya Pradesh, Indore Bench, Indore, in Election Petition No. 23 of 1967.

HIGH COURT OF MADHYA PRADESH, INDORE

ELECTION PETITION No. 23 OF 1967

Babulal s/o Ganesh Ram, R/o Ghayaraspur, P.O. Ghayaraspur, Distt. Vidisha—
Applicant

Vs.

1. Shiv Sharma s/o Ramprasad, R/o 9-A, Bomanjee Petit Road, Bombay No. 26.
2. Shambhusingh s/o Bheronsingh of Haveli.
3. Hiralal Piplal s/o Ramlal, R/o Chanak Marg, Vidisha.
4. Krishin Kumar Nuttan s/o Hazarilal, P.O. Kurwai.
5. Mangalsingh s/o Dayasingh, R/o Akodiya, P.O. Dehri, Teh. Sironj.
6. Kundanlal s/o Mannoo, M.L.A., P.O. Gairatganj.
7. Darshansingh s/o Khumansingh, R/o Bans Pipliya.

Names of Respondent No. 2 to 7 struck off vide order dated, 25th August 1967.

Application for calling to the Election of Shri Shiv Sharma s/o Ram Prasad From L.A. Vidisha Parliamentary Constituency No. 29 (Lok Sabha). Election Petition u/s 80-A and 100 & 101 of Representation of the People Act, 1951.

Petition presented by Shri Babulal s/o Ganeshram Counsel for applicant on 7th April 1967. The application coming on for final hearing on 29-8-67 before the

Honourable Shri Justice V. R. Newaskar and the Honourable Shri Justice in the presence of Shri . . . Counsel for the applicant, and of Shri R.K. Vijayavargiya Counsel for the opposite party, the following order was passed by the Court:—

IN THE HIGH COURT OF MADHYA PRADESH BENCH, INDORE

ELECTION PETITION No. 23 OF 1967

..CORAM:—The Hon'ble Shri V. R. Newaskar, J.
Babulal V. Shiv Sharma

ORDER

The petitioner as well as his counsel are absent even today. They were absent on 25th August, 1967. No application has been submitted on behalf of the petitioner explaining the reason for the absence of himself or his counsel on 25th August, 1967. No application is submitted setting out the reasons for today's absence.

Question for consideration, under these circumstances, is whether I should dismiss the petition for default.

A Division Bench of this Court in the case reported in A.I.R. 1958, Madhya Pradesh 260 Sunderlal V. Nandramdas has taken the view that although the Representation of the People Act does not confer specific power upon the Court to dismiss a petition for default yet it is axiomatic that no Court or tribunal is supposed to continue a proceeding before it when the party who has moved it has not appeared nor cared to remain present. The dismissal therefore in such cases can be made under an inherent power which every tribunal possesses and no express provision in the Act was necessary to empower the Court to make such an order of dismissal for default. This view, no doubt, is dissented from in a Division Bench decision of Allahabad High Court in the case reported in A.I.R. 1964 Allahabad 181 Vishwanath V. Malkhan Singh.

I may observe that it is some what incongruous that an election-petition once submitted cannot be withdrawn by the petitioner without the leave of the Court nor can an election-petition come to an end by the death of the petitioner but it can come to an end by mere absence of the petitioner. The principle underlying the specific provision in the Representation of the People Act requiring notices to be given to all concerned in the cases of withdrawal and death suggest that once the machinery regarding an election-petition is set in motion it ought not to come to an end either because the petitioner does not want to continue and seeks to withdraw or because of the death and that every elector and any other candidate concerned may, if he chooses, continue the proceedings. The ultimate idea is to see that the election ought not to be allowed to be sullied by any practices which are improper. If a petition cannot be withdrawn without the leave of the Court and cannot come to an end in that manner how can it be brought to an end by means of a simple conduct on the part of the petitioner in remaining absent. However as the matter at present stands I am bound by the Division Bench decision (A.I.R. 1958 Madhya Pradesh 260—supra—).

I would, therefore, direct the dismissal of the petition for default.

The respondent shall be paid half of this cost incurred thus far. Counsel's fee shall be taxed at Rs. 250.

Dated the 29th of August, 1967.

(Sd.) V. R. NEWASKAR,

Lakkad.

Judge.

HIGH COURT OF MADHYA PRADESH, INDORE

MISCELLANEOUS CIVIL CASE No. 1 OF 1967

Applicant

Opposite Party

Baboolal S/o Ganeshram, R/o Gyaraspur,
Distt. Vidisha.

Vs. Shiv Sharma S/o Ramprasad,
R/o Bombay.

Application for Restoration u/o 9 R. 9 Sec. 151 C.P.C. read with Sec. 87 of R.P. Act for Restoration of E.P. 23/67 (Babulal V Shiv Sharma) dismissed on 29th August, 1967, by this Court.

Petition presented by Shri S. G. Mandloi, Counsel for applicant, on

The application coming on for final hearing on 5th October, 1967, before the Honourable Shri Justice V. R. Nevaswar, and the Honourable Shri Justice in the presence of Shri Bhachawat & Y. I. Mehta, Counsel for the applicant, and of Shri R. K. Vijayvargiya Counsel for the opposite party, the following order was passed by the Court:—

IN THE HIGH COURT OF MADHYA PRADESH BENCH, INDORE

MISCELLANEOUS CIVIL CASE No. 1 OF 1967 (E.P.)

CORAM:—The Hon'ble Shri V. R. Newaskar, J.

Babulal V. Shiv Sharma.

ORDER

This is an application for restoration of an election petition which was dismissed for default for failure of the petitioner to appear on two successive dates of hearing namely 25th August, 1967 and 29th August, 1967. The order for dismissal was passed on 29th August, 1967, after hearing arguments addressed to me on behalf of the respondent. I had my doubts about the propriety of dismissing an election petition for default. Therefore on 25th August, 1967, Mr. Vijayvargiya counsel for the respondent was told to be ready on 29th August, 1967, to argue the point as to whether such a petition can be dismissed for default. On 29th August, 1967, Mr. Vijayvargiya argued that point and relied upon the decision of the Division Bench of this Court reported in A.I.R. 1958, Madhya Pradesh 260 Sunderlal V. Nandramdas, which took the view that the election Tribunal dealing with the election petition under the Representation of the People Act, 1951, has inherent power to dismiss such a petition for default. I assumed therefore that the High Court too like-wise has such power on the reasoning in that case. Since there is such a power to dismiss an election petition for default as held in that case, a corresponding power to restore such a petition, if sufficient cause is shown by the petitioner for his absence, should be taken to vest in this Court. The inherent power, being the residuary power, has to be exercised on consideration of the evidence adduced on behalf of the petitioner for his absence together with the entire circumstances of the case including the diligence shown by the petitioner or otherwise in prosecuting the petition.

The petitioner in this petition for restoration alleged that he had filed this election petition in the High Court at Jabalpur which was directed to be heard in the High Court Bench at Indore but that he had received no intimation about such transfer from the High Court at Jabalpur and that the petitioner consequently had no knowledge about any dates fixed in this case. According to the petitioner he had appointed Mr. Paonikar as his counsel to conduct this election petition. Mr. Paonikar returned the papers of the case to the petitioner and he tried to contact him but could not see him personally. He then went to Indore, engaged Mr. Mehta as his counsel and inspected the record of the case in the High Court at Indore. He then came to know that the petition had been dismissed for default on 29th August, 1967. The petitioner says that he had no knowledge about the date 29th August, 1967 as the date in the case nor of any date of hearing fixed at Indore. He therefore did not appear on that day. Mr. Paonikar also did not appear as he had returned the papers to the petitioner earlier. The petitioner sought restoration firstly on the ground that the petition had not been fixed for hearing on 29th August, 1967 and further that at any rate there was sufficient cause for his absence on 29th August, 1967, as he had no knowledge about the case being heard by the High Court at Indore. An affidavit in support of these allegations was filed by the petitioner.

The respondent opposed the petition denying that the petitioner had no notice about the petition being heard by the High Court Bench at Indore. The petitioner's counsel Mr. Paonikar had appeared at Indore on several dates of hearing and consequently it could not be contended by the Petitioner that he had not notice about the hearing of the case at Indore. Neither the petitioner nor his counsel Mr. Paonikar appeared on an earlier date i.e. 25th August, 1967, as well when the Court heard argument on the question of propriety of joining respondents No. 2 to 7 when those respondents had no concern with the parliamentary constituency of Vidisha.

As to the contention that 29th August, 1967, was not the date fixed for hearing it is said by the respondent that every date fixed in the election petition is a date fixed for hearing and it was so mentioned in the cause-list of that date.

It is also contended by the respondent that the petitioner took no interest in the progress of the case throughout and appeared to be fighting some one else's battle. Existence of sufficient cause for the absence of the petitioner both on 25th August, 1967 and 29th August, 1967, was denied.

As to the competency of a petition for restoration of an election petition dismissed for default it is already held above that such a petition is competent.

First question to be considered in view of the submissions is whether there was sufficient cause for the absence of the petitioner on 25th August 1967 and 29th August, 1967?

'As to this the petitioner's contention is that he had presented the petition in the High Court at Jabalpur and had engaged Mr. Paonikar as his counsel. He had received no intimation either from the High Court at Jabalpur or from Mr. Paonikar about the order of the High Court to the effect that the petition would be heard at Indore. He had therefore no knowledge either of the dates of hearing fixed at Indore or what took place on those dates.

In my opinion this contention of the petitioner is without substance. Mr. Paonikar did appear for the petitioner on 20th April, 1967, when the case was first put up for hearing in the High Court at Jabalpur which passed the order that the petitioner would thereafter be heard in the High Court Bench at Indore. Notice to the counsel is notice to the party. The petitioner therefore has to be assumed to have notice of the fact that the petition would be heard in the High Court at Indore.

After the case was taken up for hearing at Indore an amendment petition was filed on behalf of the petition, which was heard on 17th July, 1967. Mr. Paonikar appeared for the petitioner. On the next date i.e. 27th July, 1967, written statement to the main election petition was filed on behalf of the respondent No. 1. The case then was fixed for 3rd August, 1967, on which date the petition for amendment filed on behalf of the petitioner was allowed and the petitioner was directed to make necessary amendments as per order of the Court. On the same day or before 8th August, 1967. On this date i.e. on 8th August, 1967, Mr. Paonikar was present. There was no compliance with the order of the Court to make the amendment. It was ordered on that date that the case be heard on 17th August, 1967, upon the question whether the petition was amended. No. 2 to 7 was justified. He was further required to appear on 17th August, 1967. Arguments were then heard on 25th August, 1967. On 17th August, 1967 and the case was directed to be adjourned to 25th August, 1967, under the orders of the Deputy Registrar, dated 17th August, 1967. On that date neither Mr. Paonikar nor the petitioner were present. Arguments on behalf of the respondents were heard and order was dictated on Board holding that joinder of respondents No. 2 to 7 was improper and that those respondents should be struck off the record. The case was fixed for carrying out necessary amendments as per this and earlier order. I had my doubts as to whether an election petition could be dismissed for default. Therefore the counsel for the respondent was told on 25th August, 1967 to be ready with that question on 29th August, 1967. On this date also neither the petitioner nor his counsel were present. Arguments of the counsel for the respondents were heard who relied upon the Division Bench decision of this Court reported in A.I.R. 1958, Madhya Pradesh 260 (supra) that such a petition could be dismissed for default. This Court considered the question and passed an order dismissing the petition for default.

It is thus plain from these proceedings that the counsel who held Vakalatnama signed by the petitioner did participate in the proceedings at Indore upto 8th August, 1967. The petitioner therefore cannot contend that he had no notice of the case being heard in the High Court Bench at Indore. According to the statement of the petitioner in Court as also according to his affidavit he came to know that the hearing of his election petition was going on at Indore when Mr. Paonikar returned his papers under a registered envelope either by 17th or 19th of August, 1967. He then went to Bhopal about 4 or 5 days later to see Mr. Paonikar who used to stay in the Circuit-house at Bhopal. He did not meet him there. So he returned home and after a fortnight he went to Indore to enquire about the case. According to him right from 10th or 11th of April, 1967, when he had gone to Jabalpur to file the election petition upto the time he received the registered envelope on the 17th or 19th of August, 1967, he had no occasion to contact Mr. Paonikar. Subsequent to the last mentioned date he had not seen him. He had written two letters to Mr. Paonikar in the month of June 1967 with an interval of a fortnight on his address at Nagpur but those letters remained unreplyed. He thereupon felt anxious about the case. He

suggested that Mr. Paonikar had agreed to settle the account of his fees at any time he would meet the petitioner. The petitioner admitted that even on receipt of the envelope containing the file of his case he did not feel it necessary to see Mr. Paonikar, settle his fees and secure his presence in the case. It is thus plain that the petitioner did not care about the case at all after submitting his election petition at Jabalpur until he came to Indore subsequent to the dismissal of the petition and saw Mr. Mehta before 15th September, 1967, by which date the petition for restoration was submitted. The entire conduct of the petitioner shows that he had shown no care or diligence in prosecuting his election petition. Right from the date when he submitted his election petition he had hardly any real contact with the counsel, he is supposed to have engaged. He meets Mr. Paonikar, a lawyer of Nagpur, at Jabalpur. According to him he engaged him on daily fees. In such a case it is highly improbable that he would have no contact at all with Mr. Paonikar during the entire course of hearing of the case at Indore or even later on until the time he submitted a petition for restoration. His conduct reveals at least want of care and diligence if not something else as suggested by the counsel for the opponent namely that somebody else was really fighting through him. According to him when two of his letters sent by him on his (Mr. Paonikar's) Nagpur address remained unreplyed he felt anxious about his petition. It is curious and not easily believable that even then he did not consider it necessary to go to Nagpur to see Mr. Paonikar whose home-address he knew. He also did not take particular care to send his fees which, according to him, were fixed on daily basis. Further when Mr. Paonikar sent back his papers in a registered envelop he tried to see him at the Circuit House at Bhopal and when he did not meet him there he returned home and remained there for about a fortnight. This confirms the view taken by me earlier that the petitioner's conduct throughout showed want of care and diligence. When the case was fixed first on 8th August, 1967, Mr. Paonikar, counsel engaged by the petitioner, was present and in his presence the case was fixed for hearing on 17th August, 1967 and then on 25th August, 1967. Of these dates the petitioner's counsel will be deemed to have notice of the hearing. The petitioner consequently will be deemed to have notice. It is not easy to accept the petitioner's statement that although Mr. Paonikar returned his papers without any covering letter yet he believed that he would attend his case. I am, therefore, of the view that there was no sufficient cause shown by the petitioner for his absence either on 25th August, 1967 or 29th August, 1967.

The second point raised on behalf of the petitioner is that neither 25th August, 1967, nor 29th August, 1967, was a date fixed for hearing. It was a date fixed merely for effecting amendment as per earlier order and under Chapter 2 Rule (xv) of the Madhya Pradesh High Court Manual this could have been done in the office of the Deputy Registrar.

In the first place it is not correct to say that the case was not fixed for hearing on 25th August, 1967 and 29th August, 1967. In the second place Rule (xv) has no application in the present context as firstly that Rule empowers the Registrar and not the Deputy Registrar to require any petition, application etc., to be amended in accordance with the procedure and practice of the Court. In the present case the Registrar was not there and even the Deputy Registrar did not require the petitioner in exercise of his own power to make any amendment of a petition etc.

The third contention is that the case was not fixed for hearing. Only thing that was to be done was to make amendment. This, as already observed, is not correct. If either Mr. Paonikar or the petitioner had been present they would have been heard and further orders in the proceedings would have been passed. It is not correct to say that no hearing was to take place. In every proceeding with reference to an election petition which is fixed for hearing either under the order of the Court or under the direction of the Deputy Registrar, who is authorised to do so, it is not necessary to mention what would be done on such a date. It is not correct to say that if this is not mentioned absence of the party would be immaterial. He need not assume that nothing further would be done. On the other hand he must assume that the Election Petition, which by the law is required to be tried expeditiously, would be proceeded with further if what is required to be done by a party is complied with. It is consequently not correct to say that the case was not intended to be proceeded with further but had been fixed merely for a ministerial purpose. It is also not correct to say that 25th August, 1967, was fixed not by the Court but by an incompetent person namely the Deputy Registrar. He is fully competent under the Rules to fix the cases. The decisions in A.I.R. 1938 Rangoon 360 Maung Ahmin V. Maung Saung, A.I.R. 1934, Lahore 984, Hukam Chand V. Mani Shibrat Dass, 1965, Madhya Pradesh Law Journal Soort Note No. 58 Basanti Bai V. General Manager

M.P. S.R. Tr. Corporation, and 1959 Punjab 257 Ram Nath v. Paul Singh, upon which the petitioner relies have no application. As regards A.I.R. 1938 Rangoon 360 supra it is held there that if the case is fixed merely for paying process for the witnesses to be summoned or for filing list or witnesses ought not to be dismissed for default.

In this case the case was being taken from time to time on the date fixed for trial of the Election petition with a view to take further proceedings. Moreover in this case the petitioner had chosen not to appear at all on any earlier date of hearing. Counsel must also have returned papers to the petitioner because of the petitioner's neglect.

In the Lahore case A.I.R. 1934 Lahore 984 (*supra*) the case was fixed for hearing by a clerk who had no right to do so. Such is not the case here.

In A.I.R. 1959 Punjab 257 (*supra*) it is held that where an adjournment was obtained for amending an election petition and the Court permitted the amendment on payment of costs failure to amend or to pay costs did not justify the order dismissing the petition under Order 17 Rule 3 C.P.C.

I am therefore, of the view that the petitioner had full knowledge of the petition having been fixed for hearing on 25th August, 1967 and 29th August, 1967. He remained absent. His counsel too was absent. The case consequently cannot be restored pursuant to our power under Section 151 C.P.C. as there was no sufficient cause for his absence on those dates.

The petition for restoration of the Election Petition is consequently untenable. It is dismissed with costs. Counsel's fee shall be taxed at Rs. 50.

(Sd.) V. B. NEWASKAR.

Judge.

Dated the 25th of October, 1967.

[No. 82/MP/23/67.]

New Delhi, the 29th November 1967

S.O. 4166.—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the Order, pronounced on the 7th August, 1967, by the High Court of Judicature, Andhra Pradesh at Hyderabad, in Election Petition No. 11 of 1967.

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH, AT HYDERABAD

Original Jurisdiction

Monday the seventh day of August

One thousand nine hundred and sixty seven

PRESENT:

The Hon'ble Mr. Justice Kumarayya

Application No. 150 and 155 of 1967 and Election Petition No. 11 of 1967.

Application No. 150 of 1967:

N. V. L. Narasimha Rao

Petitioner.

Versus

1. Kothe Raghuramayya

2. Sanakkayala Ankamma

3. Chebrolu Hanumalaiah

Respondents

Kotha Raghuramaiah

Applicant

Versus

1. N. V. L. Narasimha Rao

2. Sanakkayala Ankamma

3. Chebrolu Hanumalaiah

Respondents

Application under Section 86 of Representation of People's Act 1951 that this High Court may be pleased

(1) to treat the application as urgent

(2) to dismiss with costs of the applicant the Election Petition No. 11 of 1967.

(3) to pay the costs of this application to the applicant

(4) to pass such further or other orders.

Application No. 155 of 1967:N. V. L. Narasimha Rao—*Petitioner**Versus*

- | | | |
|------------------------|---|--------------|
| 1. Kotha Raghuramaiah | } | —Respondents |
| 2. Sanakkayala Ankamma | | |
| 3. Chebrolu Hanumaiah | | |
- N. V. L. Narasimha Rao—*Applicant*

Versus

- | | | |
|------------------------|---|--------------|
| 1. Kotha Raghuramaiah | } | —Respondents |
| 2. Sanakkayala Ankamma | | |
| 3. Chebrolu Hanumaiah | | |

Application under order 1 Rule 10 C.P.C. Section 151 C.F.C. that this High Court may be pleased

- (1) to treat the application as urgent.
- (2) to implead Sri G. V. Punnaiah Shastry, as fourth respondent to Election petition No. 11 of 1967.
- (3) and to pass such further or other orders.

Election Petition No. 11 of 1967:

In the matter of Election held on 21-2-1967 at the Guntur Parliamentary constituency.

N. V. L. Narasimha Rao (Bar-at-law)—*Petitioner*.*Versus*

- | | | |
|-----------------------------------|---|----------------|
| 1. Sri Kotha Raghuramaiah | } | -- Respondents |
| 2. Sankkayala Ankamma, M.L.A. | | |
| 3. Sri Chebrolu Hanumaiah, M.L.A. | | |

Petition under Section 80 and 81 of the Representation of Peoples Act, 1951. the High Court may be pleased

- (1) to declare the election of the 1st respondent as void.
- (2) to award costs of this petition.
- (3) pass such other relief or reliefs.

These applications and the petition coming on for hearing, upon perusing the Judge's summons and the affidavit, dated 2 th July, 1967 in Application No. 150 of 67 and Additional affidavits filed in Application No. 150 of 67 and the counter affidavit filed in Application No. 155 of 67 and the material papers in Election Petition No. 11 of 1967, and upon hearing the arguments of M/s. B. Manawala Chowdary, P. Lingayya Chowdary, T. Lakshmaiah and B. Srinivasa Rao, Advocate for the applicant in Application No. 150 of 67, and 1st respondent in Application No. 155 of 67 and Election Petition No. 11 of 67, and Mr. M. Bhujanga Rao, Advocate for 1st respondent in Application No. 150 of 67, Applicant in Application No. 155 of 1967 and petitioner in Election Petition No. 11 of 1967 and of Mr. T. Dhanurbanddu, Advocate for 2nd respondent in Application Nos. 150 and 153 of 1967 and Election Petition No. 11 of 67 and of Mr. M. Ramaiah, Advocate for the 3rd respondent in the applications and the petition the court made the following:

ORDER

This is yet another case where the Election Petition has to be dismissed in limine under Section 86(1) of the Representation of the People Act. This time it is a case of non-compliance with the requirement of S. 82(b) of the Representation of the People Act. The facts bearing on the question are few and may be shortly stated.

In the recent general elections for Guntur Parliamentary constituency held on February 21, 1967, six persons were duly nominated as candidates for election. Of these only four, including the petitioner Sri N. V. L. Narasimha Rao, and the 1st respondent, Sri Kotha Raghuramayya seem to have contested for the seat. Sri Gullapalli Venkata Punnaiah Sastri who was also a duly nominated candidate did not choose to contest. He withdrew his candidature within the prescribed period. Eventually as a result of poll the 1st respondent was returned from the constituency. His election has now been called in question by the

Petitioner by means of Election Petition No. 11 of 1967. The grounds on which it is challenged are many. Commission of various corrupt practices by himself, through his agents and other persons have been alleged in the petition. I need not refer to all of them for, at this stage, I am concerned only with the allegations contained in the petition in relation to Gullapalli Venkata Punnaiah Sastri, who is not a party to this proceeding.

At page 8 of the annexure to the petition, the petitioner in this behalf stated thus:—

"The first respondent with a view to split the votes among the brahmins in Guntur Town induced Punnaiah Sastry to stand for this Parliamentary seat, apprehending that all the Brahmins would solidly vote for the petitioner. He was given Rs. 500 by the first respondent for his deposit. Sri Punnaiah Sastry accepted the offer and filed his nomination. Two days after the nominations were filed, first respondent spent about Rs. 300 and arranged a tea party in Brodipet and invited the voters of that locality. This function of treating some voters expressed their displeasure at this strategy of the first respondent. Thereupon apprehending some violent reaction, the first respondent induced Punnaiah Sastry to withdraw from the contest offering him a reward of Rs. 500 which he gave him towards his deposit".

Again in his amendment petition, which was filed after the issues were framed, he stated thus:—

"An amount of Rs. 1116 and Rs. 600 and Rs. 500 given on different dates to G. V. Punnaiah Sastry by the first respondent were intended to induce him to stand as candidate and withdraw his candidature subsequently for his own purposes. The first respondent used him as well as his agent for procuring votes for his election. First respondent is guilty of corrupt practice under Section 123(1) (A)(a) of the R.P. Act."

Then in para 4 of the annexure to the petition, he stated thus:—

"The first respondent apprehending that his application will be thrown out by the Selection Committee approached Sri G. Punnaiah Sastri, the President of Guntur Town Congress Committee, to recommend him to the said Selection Committee and canvass support for his candidature in consideration thereof he promised a bribe of Rs. 1,116. The said Punnaiah Sastri without hastening to act on the more promise waited till the first respondent issued a cheque for the said amount. He thereupon promised his vote and all kinds of support and sent a glorious report to the President of the A.P.C.C. stating that the 1st respondent alone had every chance of success and the chance of success of Smt. Parvati Devi are few and far between. The first respondent had given him another cheque of Rs. 600 and thereby not only procured his vote and also his services in canvassing for votes of others.

Again at page 15 of the annexure Part IV to the petition he stated thus:—

"A car was placed at the disposal of Sri G. Punnaiah Sastry. The first respondent allotted 3 or 4 cars for each Assembly constituency and each of them was given not less than Rs. 10,000 for canvassing and procuring votes not only for themselves but also for himself, as his agents."

Then in para 2 of the amendment petition which was allowed to be added at page 7 part I para 5 of the annexure to the election petition, he stated thus:—

"All the signatories headed by Sri G. V. Punnaiah Sastry constituted themselves as committee of hosts and issued invitation to facilitate the first respondent, were entrusted with Rs. 50,000 by the first respondent, to be distributed among the scheduled caste voters and Communist voters in Guntur town including Israipet, Kankaragunta, Venkata-raopet, Ramireddihota, Arundalpet, Sangadigunta, Sanjeevareddinagar, Sanjeevaiah Nagar, Nehrunagar and they procured votes for the respondent by paying them at the rate of Rs. 5 each. The first respondent himself through his agents distributed on the day of Election, Rs. 5 each to the voters of Bongarala Beedu, where Communist voters predominate and procured their votes."

In para 9 of the amendment petition added at the end of para 5 of the main petition, the petition referred to the fact that the 1st respondent wilfully suppressed certain items of expenditure including the amount paid to Punnaiah Sastry, viz., Rs. 1116, Rs. 600, Rs. 600 and Rs. 4,000.

The case of the 1st respondent is that the above allegations made in the petition (whether in its original or even amended form), are virtually allegations of bribery against Punnaiah Sastri within the meaning of S. 123 (1)(A)(b) and S. 123(B)(a) and (b) of the Act, and therefore Punnaiah Sastri ought to have been joined as a respondent to the election petition as required under S. 82(b) of the Act; and that as he was not so joined the petition is liable to be dismissed in limine under Section 86(1) of the Act. Of course, such plea was not taken in the written statement nor at the time when the respondent had opposed the amendment. It was raised at a late stage by way of Application No. 150 of 1967, after the case was set down for trial. In this application a fresh plea of non-compliance with S. 82(2) has been raised. Of course, there are other pleas also but they are covered by the issues already settled, and the learned counsel Sri Lakshmaiah confined his argument only to the fresh plea taken.

The election-petitioner in his counter to this application contended that since the respondent never took any objection at any time before the petition was posted for trial, he should be deemed to have waived such an objection, if any in view of the provisions of Order I, Rule 13, C.P.C. and his application, therefore, should be dismissed in limine. That apart, the allegation of bribing Punnaiah Sastri and of inducing him to stand as a candidate and later to withdraw his candidature are not interdependent offences. They are two distinct offences for which two distinct issues have been framed. As in the main petition the offence of bribing Punnaiah Sastri is alleged to have been committed by the petitioner, on that account Punnaiah Sastri need not be made a party. He further contended that the respondent in para 9 of his written statement had averred that Punnaiah Sastri had of his own volition and discretion filed his nomination as what he regarded as a guard nomination and the respondent never induced him nor requested him to file his nomination or withdraw the same and that as the nomination was intended to be a guard nomination, it was naturally withdrawn as a matter of course in due time. The petitioner contends that in view of this averment also, Punnaiah Sastri cannot be deemed to be a candidate within the meaning of S. 79(b). Further, Punnaiah Sastri never held himself out as a candidate at any time, nor did he in fact even wish to stand or continue as a candidate.

In his additional statement which the election-petitioner was called upon to file to clarify his position in relation to the status of Punnaiah Sastri, he stated thus:—

“Sri G. V. Punnayya Sastri was not a candidate within the meaning of Section 79(b) of the Representation of People Act, for the following among other grounds:—

- (a) Punnayya Sastri's nomination does not seem to be a valid nomination nor was he duly nominated. The person who is duly nominated or claims to be duly nominated will not be a candidate unless he began to hold himself out as a prospective candidate. He has to satisfy two requirements. Firstly, he must hold himself out as a candidate as from the time of the election in prospect. Secondly, he must be validly nominated. Even assuming without admitting that he was duly nominated, he did not hold himself out as a candidate at any time.
- (b) The first respondent (the petitioner herein) averred in his written statement that Punnayya Sastri was only a Guard Nomination. It cannot therefore be said that Punnayya Sastri held himself out as a prospective candidate at any time.
- (c) Punnayya Sastri's name was not found in the list of contesting candidates published under Section 38 of the R.P. Act.
- (d) Unless the petitioner herein, by positive evidence establishes that Punnayya Sastri is a candidate within the meaning of Section 79(b) of the Act, satisfying both the requirements mentioned therein, this application must be dismissed.”

Even though the petitioner in his election petition stated that the 1st respondent had induced Punnaiah Sastri to stand as a candidate and thereafter to withdraw as such, now he seems to take the stand that he was not a candidate at all, that he never filed a nomination paper nor was he duly nominated. A certified copy of the list of validly nominated candidates obtained by the respondent has been filed. When shown to the petitioner, he did not dispute the correctness of the said list.

After filing his counter, the election-petitioner filed another petition (Application No. 155/1967) with a request to implead Punnaiah Sastri in the election petition on the ground that the omission to implead him was due to some misapprehension as to the exact status of Punnaiah Sastri. This petition was opposed by all the three respondents. Respondents 2 and 3 in the main petition took the same stand as respondent No. 1.

The points that fall for determination in view of these two applications are:

- (1) Whether the election petition contains allegations of corrupt practice against Punnaiah Sastri?
- (2) Whether Punnaiah Sastri is a candidate within the meaning of S. 82(b)?
- (3) Whether there was non-compliance with the provisions of S. 82(b) and the election petition is therefore liable to be dismissed under S. 86(1)?
- (4) Whether Punnaiah Sastri can now be impleaded as a party-respondent?

In order to attract S. 32(b) of the Representation of the People Act, it is essential that there should be allegations of corrupt practice against the candidate in the petition. What is meant thereby is that the allegations must suggest and indicate that the candidate has committed a corrupt practice or is guilty thereof. It is immaterial whether he has done the same in his own interest or as a candidate. Even if it is done as an agent, the case will be covered by the provision. There is ample authority in support of these propositions. In *S. B. ADITYAN v. S. KANDASWAMI* (), A.I.R. 1958 Mad. 171 it was held by the Madras High Court that the expression "any candidate who is alleged to have committed corrupt practices" employed in S. 82(b) must mean any candidate who is alleged to have committed corrupt practices and that there is no scope for importing any concept of vicarious liability under S. 82(b). In *S. B. ADITYAN v. S. KANDASWAMI & OTHERS* () A.I.R. 1958 S.C. 857 the Supreme Court held that when S. 82(b) talks of allegations of corrupt practice against a candidate it means allegation that a candidate has committed a corrupt practice. Similar was the view taken in *AMIN LAL v. HUNNAMAL* () A.I.R. 1965 S.C. 1243.

So then it is to be seen whether there are any allegations of corrupt practices against Punnaiah Sastri in the sense that he has committed them. Whatever may be said of other allegations, there are indeed two allegations categorical enough which far from being merely narrative of sequence of facts that took place in connection with the election, positively show that the charge of commission of corrupt practice was made against Punnaiah Sastri. At one place in the amended petition, at page 7, it has been said that all the signatories headed by Sri Punnaiah Sastri were entrusted with Rs. 50,000 to be distributed among the scheduled caste voters and Communist voters in Guntur town, including various specified areas, and they procured votes for the respondent by paying them at the rate of Rs. 5 each. Obviously enough it is a specific charge of corrupt practice coming under S. 123(1)(A)(b) against Punnaiah Sastri as well. That is the indisputable position which even the petitioner on being asked could not disown. Then there is an allegation at page 8 of the annexure to the petition, to which also reference has been made in the earlier part of this order. Therein the petitioner has shown that Punnaiah Sastri, induced to stand as a candidate, was given Rs. 500 by the 1st respondent. What he actually stated thereafter is this:—"Sri Punnaiah Sastri accepted the offer and filed his nomination". Again in the same para he stated thus:—"Thereupon apprehending some violent reaction the 1st respondent induced Punnaiah Sastri to withdraw from the contest offering him a reward of Rs. 500 which he gave him towards his deposit."

If the said amount constituted gratification or reward, there is little doubt that receipt of the said amount as a motive or as a reward for standing or withdrawing from being a candidate, is well within the ambit of the amended provision of S. 123B(a) and is a corrupt practice. It is clear from the allegation in the petition that the receipt of Rs. 500 constituted a motive for standing and a reward thereafter for withdrawal. As the law stood before the amendment of S. 123 receipt of bribe was not a corrupt practice but as a result of the amendment, not only giving but also receiving is equally an offence and is a corrupt practice within the meaning of S. 123 of the Representation of the People Act. Thus it is manifest that there are allegations of corrupt practices against Punnaiah Sastri in the election petition, as it stood before the amendment and also thereafter. Of course, in the election petition there are a large number of other corrupt practices alleged to have been committed by the 1st respondent and his agents and other persons on his behalf but that is not a matter of consideration for the purposes of the present application. The point for consideration would be simply whether or not there are allegations of corrupt practices in the petition against a candidate.

who is not made a party-respondent. The correctness or otherwise of the said allegations need not now come up for consideration for it is sufficient if there are allegations to that effect. As we have already seen, there are such allegations in the election petition.

Then the only other point to be considered for the purposes of S. 82 is whether Punnaiah Sastri is a candidate within the meaning of that provision. The petitioner now chooses to deny that he was a candidate. It is not easy to understand why the petitioner in the face of his clear averments in the election petition to the contrary has chosen now to contend that Punnaiah Sastri was not a candidate. His averments in the petitioner categorical that Punnaiah Sastri was induced to stand as a candidate, that he accepted the offer of Rs. 500 towards deposit which was, in fact, paid by the 1st respondent to him, and then again he was successfully induced to withdraw from the contest. The very expression "withdrawal from the contest" implies that he was a duly nominated candidate who as such alone could withdraw from the contest under S. 37 of the Representation of the People Act. Had he not gone through the process of filing nomination paper, which must be in order, and come out successful in the scrutiny by the Returning Officer, his name would not have found a place in the list of validly nominated candidates prepared under S. 36(8) of the Representation of the People Act. The petitioner could not remain unaware of the fact that Punnaiah Sastri was a duly nominated candidate for himself being a candidate it was in his interests to know about all the candidates so that he may raise objection in relation to the various nomination papers filed. Besides he must have necessarily looked into the list of validly nominated candidates for he was a person directly interested in that matter. He could not help himself to remain ignorant of all these events. He must also have been aware of the later list of contesting candidates prepared under S. 38 after withdrawals of candidates if any. His assertion that he is not aware and his denial as to Punnaiah Sastri's filing nomination paper or his having been duly nominated or his withdrawal after due nomination, cannot be acceptable. At any rate, the certified copy of the list of validly nominated candidates, prepared under S. 36(8) and filed in Court bears standing testimony to the fact that Punnaiah Sastri was duly nominated. This list has been shown to the petitioner who could not deny the truth thereof. All that he contends thereafter is that as the respondent himself had said in his written statement that he did not induce Punnaiah Sastri to stand or withdraw as a candidate but that the nomination of Punnaiah Sastri was intended to be a guard nomination, it must follow that his candidature was not real or affective but was a mere make believe or showy matter and as he never held himself out also as a prospective candidate, he cannot be regarded as a candidate. Stress is laid on the words "began to hold himself" out used in S. 79(b) of the Representation of the People Act. That section defines candidate in the following terms:—

"'Candidate' means a person who has been or claims to have been duly nominated as a candidate at any election, and any such person shall be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as prospective candidate."

It would appear from the language of the definition that it has concerned itself not only with the meaning of 'a candidate' but also the time from which a person will be deemed to be a candidate. While the first part of the definition gives the meaning of the term 'candidate', the second part introduces a legal fiction by providing that a person coming within the meaning clause may be regarded as a candidate as from the time with the election in prospect, he began to hold himself out as a prospective candidate. The second clause will not be applicable unless the condition of the first clause is satisfied. To come within the meaning clause, he must be a person who must have been duly nominated as a candidate or at least who claims to have been duly nominated though not actually nominated which may happen in cases where the nomination paper was rejected, but the person claims it was wrongly rejected. So then unless a person files his nomination paper in accordance with the law in force, he cannot possibly be regarded as a candidate. Even if he files his nomination paper but the same is rejected and he acquiesces therein and does not claim to have been duly nominated, he will not be within the meaning of S. 79(b). Thus he should either be duly nominated or must claim to have been duly nominated in order to come within the definition of candidate. The question of holding out arises only if the above two conditions are satisfied, and even that only for purposes of determining the starting period of his candidature. Though as a matter of fact he can be a candidate only when duly nominated or an occasion has arisen by reason of which he can claim to have been duly nominated, his candidature may relate back to the time from which he started holding himself out to be a prospective candidate with the election in prospect. Thus the significance of holding out lies in determining the

starting time of candidature and that only if he satisfies the condition of the first clause. His holding out may yet be of no avail if that was not done with the election in prospect. The contention, therefore, of the petitioner that unless it is proved that Punnaiah Sastri has held himself out as a prospective candidate, he cannot be held to be a candidate, even though he might have filed his nomination paper and was validly nominated and his name appeared in the list of validly nominated candidates, cannot be tenable in view of the terms of Section 79(b).

The only other point to be considered then is that since the term candidate as defined in S. 79(b) shall continue to have that meaning in other provisions unless the context otherwise requires as is clear from the opening clause of S. 79 whether there is sufficient context in S. 82 which may give a different meaning to that term. We may read here the provisions of both Sections 82 and 86(1) which are in the following terms:—

"82. A petitioner shall join as respondents to his petition, (a) where the petitioner, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates other than the petitioner, and where no such further declaration is claimed, all the returned candidates; and

(b) any other candidate against whom allegations of any corrupt practice are made in the petition.

86(1). The High Court shall dismiss an election petition which does not comply with the provisions of section 81 or section 82 or section 117."

* * * * *

Section 82 casts duty on the petitioner to make certain persons specified in the clauses (a) and (b) thereof party-respondents to the petition as enjoined by the said clauses. It is open under law to a petitioner to claim in his petition only the declaration that the election of all or any of the returned candidates is void. He can as well claim a further declaration that the petitioner himself or any other candidate has been duly elected. Whereas in the former case it is sufficient if he makes a returned candidate or returned candidates, as party-respondents, in the latter case he has to implead as respondents all the contesting candidates, i.e., candidates whose names were included in the list of validly nominated candidates and who did not withdraw their candidature within the prescribed period. In this way all the defeated and returned candidates have to be on record. It is significant to note that in case any allegations of corrupt practice are made in the petition against a candidate, be he a contesting candidate or not, he has necessarily to be made a party-respondent in either case. The words 'other candidate' used in contra-distinction to the words 'contesting candidates' employed in clause (a) manifestly show the clear intention of the legislature that all candidates who came within the definition of the candidate as in S. 79(b) and who on account of withdrawal of candidature under S. 37, are not included in the list of contesting candidates prepared under S. 38 of the Representation of the People Act, are within the meaning of that term. Such candidates have necessarily to be made party-respondents, if there are allegations against them of any corrupt practice. It is immaterial whether it is a single corrupt practice or many that are alleged in the petition. They are in either case necessary parties to the constitution of the petition. In other words, in their absence the petition cannot be tried, but as enjoined by S. 86(1) has to be dismissed *in limine*. It is no doubt provided in S. 99 that in case any charge of corrupt practice is made in the petition, the High Court shall give a finding at the time of the final disposal of the petition whether the said corrupt practice has been proved and shall also specify the names of all persons, if any, who have been proved at the trial to have been guilty of such corrupt practices and this it has to do only after notice being given to the persons concerned to show cause why they should not be named and after giving them opportunity to meet the case against them as enjoined in clauses (a) and (b) to the proviso to S. 99. The legislature has given special importance to corrupt practice committed by candidates and did not leave it open to the discretion of the petitioner to join such candidates in the petition but made it obligatory under a special provision on him to make them party-respondents to the petition itself on pain of dismissal of the petition so that from the very initial stage the attention of the Court may be centered on these allegations and the enquiry there into may be made in the presence of those persons. That is the obvious intention of the Parliament.

It follows, therefore that Punnaiah Sastri, who was a candidate other than a contesting candidate as he had withdrawn his candidature, was a necessary party

to the petition as allegation of corrupt practice was made against him in the petition. His non-inclusion is therefore fatal to the petition.

This position in law is no longer in doubt and is well settled by authority including the compelling authority of the Supreme Court in *CHATURBHUIJ CHUNNILAL v. ELECTION TRIBUNAL, KANPUR AND OTHERS* () A.I.R. 1968 All.809, the Allahabad High Court after exhaustive discussion on the subject held that sub-clause (b) of S. 82 of the Act must be interpreted as covering cases where a candidate is alleged to have committed a corrupt practice at any time even though he may have ceased to participate in the contest by withdrawing his candidature or may have been incapable of participating in the election because his nomination was rejected but he claims to have been duly nominated. The Bombay High Court in *BABURAO TATYAJI BHOSLE v. MADHO SRIHARI ANEY* () A.I.R. 1961 Bom. 29 held to the same effect that a candidate who had withdrawn his candidature under Section 37 after filing his nomination does not cease to be a candidate and therefore so far S. 82(b) is concerned must be made a party to the election if allegation of corrupt practice is made against him. It further held that the context in S. 82(b) does not require to construe the word candidate in any other sense than in S. 79(b). The same is the view of the Punjab High Court as expressed in *RAO ABHIE SINGH v. RAO NIHAL SINGH RAMJI LAL* () A.I.R. 1964 Punjab 209, which has been affirmed in appeal by the Supreme Court in *AMIN LAL v. HUNNA MAL* () A.I.R. 1965 S.C. 1243. It has been laid down by their Lordships following the decision in *MOHAN SINGH v. BHANWAR LAL* () A.I.R. 1964 S.C. 1366, that a person who was a duly nominated candidate though he withdrew his candidature within the time prescribed by the rules must for the purpose of S. 82(b) still be regarded as a candidate. When an election petition contained any imputation of corrupt practice against such a person, it cannot be regarded as properly constituted unless he was impleaded as a respondent. It may be remembered that in that case only one of the several grounds set out by the petitioner to set aside the election related to the candidate who was not made a party-respondent. Similar was the circumstance of the case in *HAR SARUP v. BRIJ BHUSHAN SARAN* () A.I.R. 1964 All. 340. This case went in appeal to the Supreme Court () A.I.R. 1967 S.C. 836. Their Lordships observed that if purity of election has to be maintained, which is the purpose of S. 123, a person who is a candidate as defined in S. 79(b) will remain candidate even after he withdraws till election is over and if he commits a corrupt practice whether before or after his withdrawal, he would be a necessary party under S. 82(b).

It is unnecessary for me to multiply citations. It is clear that Punnaiah Sastri, who had withdrawn from the contest, was a candidate for the purposes of sub-section (b) of S. 82 and he was a necessary party to the petition. His non-inclusion must entail the penalty under S. 86(1) of the Representation of the People Act.

Section 86(1) is express and explicit and enjoins on the Court to dismiss any petition which does not comply with the provisions of Sections 81, 82 and 117. This provision being mandatory in nature has to be obeyed in full. The Court has no power to condone or dispense with or waive non-compliance.

The petitioner, in order to remedy this defect, has filed an application that he may be permitted to implead Punnaiah Sastri as a party-respondent even at this stage as his non-inclusion was based on a *bona fide* belief that he is not a necessary party to the petition.

It is urged that it is discretionary with the Court even in such circumstances to permit the petitioner in exercise of its powers under O 1 Rule 10, C.P.C., to add party to the petition. It is difficult to subscribe to this contention. It is not as though the provisions of the Civil Procedure Code are made applicable without any qualifications. S. 87 of the Representation of the People Act makes the provisions of the Civil Procedure Code available so far as they are not inconsistent with the provisions of the Act. In fact, S. 87 says that subject to provisions of this Act or any rules made thereunder, every election petition shall be tried as nearly as may be in accordance with the procedure applicable under the Civil Procedure Code to the trial of the suits. The provisions of the Civil Procedure Code are thus made subordinate to the provisions of the Act and can be followed only when there is no express provision in the Act and only to the extent they mean no inconsistency with it. I may refer in this behalf to the following observations of the Supreme Court in *JAGANNATH v. JASWANT SINGH* () A.I.R. 1954 S.C. 210:

"The general rule is well settled that the statutory requirements of election law must be strictly observed and that on election contest is not

an action at law or a suit in equity but is a purely statutory proceeding unknown to the common law and that the court possesses no common law power.

"It is also well settled that it is a sound principle of natural justice that the success of a candidate who has won at an election should not be lightly interfered with and any petition seeking such interference must strictly conform to the requirements of the law. None of these propositions however has any application if the special law itself confers authority on a Tribunal to proceed with a petition in accordance with certain procedure and when it does not state the consequences of noncompliance with certain procedural requirements laid down by it.

It is always to be borne in mind that though the election of a successful candidate is not to be lightly interfered with one of the essentials of that law is also to safeguard the purity of the election process and also to see that people do not get elected by flagrant breaches of that law or by corrupt practices.

In cases where the election law does not prescribe the consequence or does not lay down penalty for noncompliance with certain procedural requirements of that law, the jurisdiction of the Tribunal entrusted with the trial of the case is not affected."

It is clear from the above that it is only when the special law does not prescribe the consequences of noncompliance with certain procedural requirements that the Court has power to exercise its discretion consistent with the principles of justice. If the consequences of noncompliance are provided in special law the Court would not be justified in ignoring the same or in permitting avoidance of the consequences by adopting a procedure which would bring about such a result. In this view of the matter it is impossible to hold that the petition which ought to be dismissed under the mandatory provisions of S. 86(1) can at all be kept alive and be proceeded with either by invoking the powers under Order 1 Rule 10, viz., by impleading the necessary party or by permitting the party to delete that portion of the allegations in the petition which necessitate the impleading of Punnaiah Sastri. This proposition again is well settled by chain of authorities. In *K. MAMARAJ NADAR v. KUNJ THEVAR & OTHERS* () A.I.R. 1958 S.C. 687 their Lordships while holding that if provisions of S.82 which prescribe who shall be joined as respondents to the petition are not complied with, the Tribunal is bound to dismiss the petition, observed that the defect of non-joinder of necessary parties cannot be cured by amendment inasmuch as the Election Tribunal has no power to grant such amendment, be it by way of withdrawal or abandonment of part of the claim or otherwise. The same principle has been reiterated in *INAMATI MALLAPPA BASAPPA v. DESAI BASAVARAJ AYYAPPA* () A.I.R. 1958 S.C. 698 and *AMIN LAL v. HUNNA MAL* () A.I.R. 1965 S.C. 1243 and some other decisions of the Supreme Court. The petitioner, relying on the last para of the decision in *AMIN LAL v. HUNNA MAL* () A.I.R. 1965 S.C. 1243, has argued that the observations contained therein must mean that the Court can notwithstanding the provisions of S.86(1) direct the necessary party to be impleaded in exercise of its powers under O.1 Rule 10, C.P.C. The observations of their Lordships are not susceptible of the inference that the petitioner seeks to draw. It was observed there that even if there was power to permit the joinder of parties that could not be exercised at any rate after the time has run against the petitioner. In the present case also the same difficulty would arise if it be assumed that O.1 Rule 10, C.P.C. as available to remove the defect in S. 82(b) for unless that defect is removed within the period of limitation, the stable infirmity which would warrant dismissal of the petition under S. 86(1) would endure. Judged from any angle the petition for amendment cannot be allowed. On the other hand, the application of the 1st respondent must be allowed and the Election Petition must be dismissed *in limine*.

The plea of waiver raised by the Election Petitioner invoking Rule 13 of Order 1. Civil Procedure Code, has to necessarily yield to the mandatory provisions of S. 86(1) which leaves no option to the Court but to dismiss the petition.

I, therefore, allow Application No. 150 of 1967, disallow Application No. 155 of 1967, and dismiss Election Petition No 11 of 1967 *in limine*. The petitioner shall pay the costs of all the three respondents, which are fixed at Rs. 200 to each.

Sd./- V. KRISHNASWAMI,
Dy. Registrar.

[No. 82/AP/11/67.]

New Delhi, the 30th November 1967

S.O. 4467.—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the Order, pronounced on the 10th October, 1967 by the High Court of Judicature for Rajasthan at Jodhpur in Election Petition No. 13 of 1967.

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR.

Original Jurisdiction

JUDGMENT

SHRI MOHAN RAJ
S/o Shri Manmal Jain,
Resident of Village Deoli,
at present residing at Bali.

1. **SHRI SURENDRA KUMAR**
TAPARIA,
S/o Shri Gajana, 9,
Raja Santosh Road;
Alipur, Calcutta.
2. **SHRI HARISH CHANDRA**,
S/o Shri Ram Chandra
Mathur, Resident of
Nayabas, Jodhpur.
3. **SHRI KHANGARSINGH**
S/o SHRI KISHNA,
Resident of Village Devli,
Tehsil Kharchi.
4. **SHRI RAMZAN KHAN**
S/o Shri Lal Khan
Resident of Village
Lambia, Tehsil Pa'i.
5. **SHRI RAM PRASAD**
S/o Shri Ram Chandra
Ganchi, Amardas-ki-Gali,
Gandhi Bhawan, Pali.

S. B. Election Petition No. 13 of 1967.

Date of Judgment—10th October 1967.

PRESENT:

The Hon'ble Mr. Justice Jagat Narayan.

Messrs Marudhar Mridul and Inder Chand for the petitioner.

Messrs. C.L. Aggarwal, Roshan Lal Maheshwari and B. N. Chanda for respondent No. 1.

Mr. Prakash Chander Mathur for respondent No. 2.

By the Court

This is an election petition under section 80 of the Representation of the People Act 1951 challenging the election of Shri Surendra Kumar Taparia, respondent No. 1, to the Lok Sabha from the Pali Parliamentary Constituency. The petition has been filed by one Mohan Raj, an elector to the Constituency. The election has been challenged under section 100(i) (b) on the ground that respondent No. 1, his election agent and some other persons with his consent committed various corrupt practices defined under section 123.

The election petition was presented before this Court on 7th April, 1967. It was put up on 14th April, 1967, before me with an office report that the provisions of sections 81, 82 and 117 had been complied with. This was done in pursuance of section 86(1) which lays down that the High Court shall dismiss an election petition which does not comply with the provisions of these sections. It was not detected by me at that time that the petition did not comply with the provisions of section 82(b). Allegations of corrupt practice had been made in the petition against Shri R. D. Periwal who was the election agent of the returned candidate. Shri R. D. Periwal was himself a candidate at the election. He filed his nomination paper for the Lok Sabha from the Pali Parliamentary Constituency on 18th January, 1967. It was accepted as valid. Shri Periwal however withdrew his candidature on 23rd January, 1967.

Section 82(b) provides that a petitioner shall join as respondents to his petition any other candidate against whom allegations of any corrupt practice

are made in the petition. "Candidate" occurring in section 82(b) has been defined under section 79(b) has follows:—

" 'Candidate' means a person who has been or claims to have been duly nominated as a candidate at any election, and any such person shall be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as a prospective candidate."

As Shri R. D. Periwal was duly nominated as a candidate at the election for this constituency he was a candidate within the meaning of the word as used in section 82(b) and I should have dismissed the election petition on 14th April, 1967 under section 86(i) on the ground that Shri Periwal was not joined as a respondent to the petition. The provision contained in section 86(i) is mandatory.

As has been mentioned above the petition was not dismissed under section 86(i) by me on 14th April, 1967. Respondent No. 1 appeared through counsel on 15th May, 1967 and prayed for time to file a written statement which was granted. He filed his written statement on 15th June, 1967. In this written statement no objection was taken on behalf of respondent No. 1 that the petition was liable to be dismissed under section 86(i) for non-compliance of section 82(b). Objections were taken that several of the allegations were vague and were lacking in necessary particulars. On 2nd July, 1967 a detailed order was passed asking the petitioner to furnish further and better particulars of the corrupt practices alleged in the petition. An amendment application was filed on 26th July, 1967. Respondent No. 1 filed objections against the amendment application. These objections were decided on 1st August, 1967. One allegation of corrupt practice and several instances of it were deleted for want of sufficient particulars. The petitioner was allowed to amend the petition in accordance with the order of this Court dated the 1st August, 1967. Time was granted to respondent No. 1 to file an amended written statement. This amended written statement was filed on 24th August, 1967.

In this written statement a preliminary objection was taken that the petition should be dismissed under section 86(1) as Shri R. D. Periwal was not joined as a respondent. This objection in the written statement was based on the allegations contained in the amended election petition. The hearing of this preliminary objection commenced on 29th August, 1967. The learned counsel for respondent No. 1 contended in his arguments that the petition as filed originally before this Court should have been dismissed under section 86(1) as it contained allegations of corrupt practice against Shri R. D. Periwal who was a candidate at the election within the meaning of section 82(b).

On behalf of the petitioner it was contended that as the original petition has been amended this Court can only examine the amended petition to see whether or not it complies with the provision contained in section 82(b). The decision of their Lordships of the Supreme Court in *Amin Lal v. Hunna Mal* (1) was referred to in this connection. That decision is of no help in deciding this question. In that case the original petition did not suffer from the defect of non-compliance of section 82(b). It was only the amended petition which suffered from such a defect. It was contended on behalf of the election petitioner before their Lordships that what sub-section (3) of section 90 of the Act, as it stood at that time, contemplated was a petition as originally filed by the petitioner and an amended petition could not be dismissed for non-compliance of section 82(b). Section 86(1) of the Act as it now stands corresponds section 90(3) of the Act before the amendment. In repelling the above argument their Lordships observed:—

"Since an election petition can be permitted by the Tribunal to be amended a petition which has been amended, would, from the date of amendment, be the only petition before it. Therefore, that would be the petition with respect to which it could exercise the powers conferred upon it by sub-section (3) of section 90. To hold otherwise would lead to the result that the powers conferred by the legislature on the Tribunal by this provision will become non-exercisable in respect of one category of election petitions."

It was not disputed before their Lordships that even if the petition as filed originally suffered from the above defect it had to be rejected. Under section 86(1) it is the duty of the Court to dismiss the petition if it does not comply

with the provisions of section 81 or 82 or 117. The petition is put up before the Court to see if there is any defect of the above nature and it is only if the Court is satisfied that the petition does not suffer from any such defect that service is effected on the respondents. Even if the Court omits to notice any such defect at that stage it is bound to dismiss the petition under section 86(1) whenever it is brought to its notice that the petition as filed originally suffered from any such defect. The provision contained in section 86(1) is mandatory and a petition which is liable to be dismissed under this provision cannot be allowed to be amended. If any amendment of such a petition is permitted by the Court, the amendment itself is void.

I now proceed to examine the original as well as the amended petitions

Para 9 of the original petition runs as follows:—

“That in order to promote feelings of hatred against the Congress candidates on the ground of religion, caste and community the respondent No. 1 or his election agent or other person with the consent of respondent No. 1 got prepared a poster on cloth in which a Congressman (with a Gandhi cap) was depicted as butcher with a naked sword slaughtering a cow. This Congressman man was shown as wearing Muslim dress. This poster was published in the main Bazar of Rani just near the office of the respondent No. 1 at Rani. Rani is a big industrial centre and people from more than 300 villages visit ‘Mandi’ at Rani every day. The matter was reported to higher authorities by local police and Vikas Adhikari and the poster was thereafter removed. This is also a corrupt practice according to section 123 of the Representation of People Act 1951.”

On behalf of the petitioner it was contended that the allegations contained in the above paragraph do not amount to a corrupt practice against the election agent of respondent No. 1. The allegation is no doubt vague inasmuch as it is not stated whether respondent No. 1 was responsible for the preparation or publication of the poster or his election agent or some other person with the consent of respondent No. 1. The petitioner was directed to give the name or names of persons who prepared the poster or who exhibited it. He was also asked to give particulars of the facts on the basis of which he had asserted that the poster was exhibited with the consent of respondent No. 1. In the amended petition (para 8) the petitioner has alleged that the poster was got prepared by respondent No. 1 and it was he who got it affixed outside his office in the main Bazar of village Rani, through his agent Shri N. C. Mehta.

There is thus no categorical allegation of corrupt practice against Shri R. D. Periwal contained in para 9 of the original petition. I do not express any opinion in this case whether or not the exhibition of such posters amount to a corrupt practice under section 123.

Para 10 of the original petition runs as follows:—

“That respondent No. 1 or his election agent or other persons with the consent of respondent No. 1 sent persons in Sadhu garb in the Pali Parliamentary Constituency who told electors of this constituency that if they vote for Congress they would be responsible for cow slaughter (*Geo Hatya*). Not only this, they administered oaths to the voters not to vote for Congress. This is a corrupt practice according to section 123 of the Representation of the People Act, 1951.”

This did not contain a clear allegation that the election agent committed the corrupt practice. The allegation made in it is that either respondent No. 1 or his election agent or some other persons with the consent of respondent No. 1 sent the Sadhus. The petitioner was asked to state in respect of each Sadhu the date and place where he told the voters that if they voted for the Congress they would be responsible for cow slaughter and administered oaths to them not to vote for the Congress. He was also asked to state in respect of each Sadhu whether he was sent by respondent No. 1 or his election agent or by some other person with the consent of respondent No. 1. He was asked to disclose the name of the person who had sent the Sadhus with the Consent of respondent No. 1.

In response to the above order the petitioner added the following sub-para by way of further particulars to the above paragraph. Para 10 has been renumbered as para 9:—

- "(i) The same was done at a meeting in Gandhi Katia Pali on 13th January 1967 by Swami Sankranand Ji, Richanand Ji and Ramsukh Ji and on 16th January 1967 at a meeting in Dhanmandi by Swami Banarsi Giri Maharaj. These meetings were arranged by respondent No. 1 and his election agent and his local workers."

Reading para 9 of the amended petition along with the above sub-para I am of the opinion that a clear allegation of corrupt practice against the election agent is made out. The argument on behalf of the petitioner is that it is not stated that respondent No. 1 or his election agent or other persons who sent the Sadhus to tell the voters that if they voted for the Congress they would be committing the sin of cow slaughter and who also administered oaths to the voters not to vote for the Congress were told to do so by respondent No. 1 or his election agent or other persons who sent them with the consent of respondent No. 1. Reading the allegations as a whole it is implicit that the Sadhus were sent with the object that they may exercise undue influence over the voters by telling them that if they voted for the Congress they would be committing the sin of cow slaughter. It was with this object that respondent No. 1 and his election agent arranged one meeting in Gandhi Katia Pali and arranged for Swami Sankranand Ji, Swami Richanand Ji and Swami Ramsukh Ji to address the same. Further they arranged another meeting on 16th January 1967 in Dhan Mandi and arranged for Swami Banarsi Giri Maharaj to address it with the same object namely to tell the voters that they would be committing the sin of cow slaughter if they voted for the Congress and to administer oath to them not to vote for the Congress. It was not disputed that these amount to corrupt practices under section 123.

Para 11 and 13 of the original election petition run as follows:—

- "(11) That the respondent No. 1 and his election agent and persons authorised by respondent No. 1 incurred and authorised the expenditure of large sums of money for the election campaign of respondent No. 1 between 13th January 1967 and 23rd February 1967. The election expenses of respondent No. 1 between the aforesaid dates far exceeded the limit of Rs. 25,000/- and thereby the respondent No. 1 contravened the provisions of sections 77 and 123 of the Representation of the People Act 1951. The return filed by the respondent No. 1 is wholly incorrect. That some of the instances amongst others of such election expenses have been enumerated in this petition."

- "(13) That the respondent No. 1, his election agent and other persons authorised by respondent No. 1 consumed petrol worth at least Rs. 50,000/- during 13th January 1967 to 23rd February 1967 in the Pali Parliamentary Constituency in connection with this election."

The permissible limit of expenditure prescribed under section 77(3) for a candidate for election to a Lok Sabha seat is Rs. 25,000/-. The above two paragraphs contain a clear allegation that both respondent No. 1 and his election agent were guilty of the corrupt practice mentioned in section 123(6).

Two contentions were advanced on behalf of the petitioner with regard to the above two paragraphs. One was that full particulars of the corrupt practices alleged under the above paragraphs as required by section 83(1)(b) were not given by the petitioner in these two paragraphs and therefore they cannot attract the provisions of section 82(b). This argument is misconceived. Section 82(b) only refers to allegations of corrupt practice. If allegations of corrupt practice are made in the petition but particulars as required by section 83(1)(b) are not given the High Court has power under section 86(5) to allow such particulars to be given by an amendment of the petition. In this connection I may refer to the decision of their Lordships of the Supreme Court in *Harish Chandra v. Triloki Singh*(2).

In *Beal v. Smith*(3) the election petition merely stated that "the respondent, by himself and other persons on his behalf, was guilty of bribery, treating and undue influence". The respondent took out an application for an order that the petition be taken off the file on the ground that it merely stated the grounds but

(2) A.I.R. 1957 Supreme Court 444.

(3) (1869) 4 C. P. 145.

not the facts constituting the particulars as required by R. 2. In the alternative it was prayed that the petitioners should be directed to give particulars relating to the several corrupt practices. In rejecting the former prayer, Bovill C.J. observed:—

"Now, with regard to the form of the petition, it seems to me that it sufficiently follows the spirit and intention of the rules; and no injustice can be done by its generality, because ample provision is made by the rules to prevent the respondent being surprised or deprived of an opportunity of a fair trial, by an order for such particulars as the Judge may deem reasonable. I think, therefore, it would be quite useless to require anything further to be stated in the petition than appears here."

With reference to the alternative prayer, it was held that an order that the particulars be furnished three days prior to the trial was a proper one to be passed. A similar decision was given in the Greenock Election case, a report of which is given in a footnote at page 150 of (1869) 4 C.P. 145—38 L.J.P.C. 145.

These two English decisions were approved by their Lordships of the Supreme Court in the above decision and it was held that the failure to give particulars of corrupt practices is not fatal to the maintainability of the election petition. Their Lordships observed:

"There is, it should be observed, nothing in the Election law of England corresponding to S. 83(2) the question of particulars being left there to be dealt with under the Rules applicable to the trial of causes. The consequence is that while under the English practice, the petitioners are not obliged to state particulars of corrupt practices in their petition, under S. 83(2) a statement of those particulars must be made in the petition in a separate list annexed thereto. But this difference is more a matter of form than of substance, as s. 83(3) provides for particulars being called for and furnished in the course of the proceedings, and does not affect the conclusion as to the power of the Tribunal to allow new instances to be pleaded."

In the present case I did not order deletion of the above two paragraphs from the petition in the first instance but gave an opportunity to the petitioner to furnish full particulars as required by section 83(i)(b) and when full particulars were given I allowed the petition to be amended. The provision contained in section 82(b) is attracted whenever an allegation of any corrupt practice is made in the petition even if the particulars of the corrupt practice are given.

The next contention on behalf of the petitioner is that the allegations contained in paras 11 and 13 do not amount to allegations of corrupt practice against the election agent. The only amount to the corrupt practice against respondent No. 1. The argument is that it is not alleged in these two paragraphs that the election agent by himself incurred or authorised expenditure in excess of Rs. 25,000/- and that no corrupt practice under section 123(6) is committed by a person other than the contesting candidate unless he by himself incurs or authorises expenditure in excess of Rs. 25,000/-. No authority was cited in support of this contention. It was argued that the commission of a corrupt practice entails a severe penalty. Section 8A provides: that a person found guilty of a corrupt practice by an order under section 99 shall be disqualified for a period of 6 years from the date on which that order takes effect. It was contended that a person other than the contesting candidate should only be held to be guilty of the corrupt practice under section 123(6) if it is alleged and proved that he by himself incurred or authorised expenditure in excess of the prescribed limit in connection with the election.

I am unable to accept this contention. Section 77 runs as follows:—

- "77. *Account of election expenses and maximum thereof.*—(1) Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him or by his election agent between the date of publication of the notification calling the election and the date of declaration of the result thereof, both dates inclusive.
- (2) The account shall contain such particulars, as may be prescribed.
- (3) The total of the said expenditure shall not exceed such amount as may be prescribed."

According to the above section either the candidate should himself keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him or by his election agent or the election agent should maintain such an account. Keeping an account means that it should be maintained from day to day so that the person maintaining it—whether it be the candidate himself, or his election agent—knows exactly how much expenditure has been incurred upto date, in order that the prescribed limit may not be exceeded. A duty is cast not only on the candidate but also on his election agent to keep a watch on the total expenditure so that it does not exceed the prescribed limit. If it so exceeds then in my opinion both the candidate and his election agent are equally responsible for it.

A perusal of the provisions of the Representation of the People Act 1951 goes to show that the powers and privileges of an election agent are the same as those of the candidate. It stands to reason that he should share the same responsibilities with the candidate and should be subject to the same disabilities as the candidate himself. Under section 41 a person who is for the time being disqualified for being a member of either House of Parliament or either House of the Legislature of a State is also disqualified for being an election agent at any election. Under Sections 46 and 47 the election agent has the same power of appointing polling and counting agents as the candidate himself. Under section 50 both the candidate and his election agent are authorised to perform the functions of a polling agent or a counting agent. Under sections 77 and 78 an election agent has the same power of maintaining accounts and lodging them with the District Election Officer as the candidate himself. Under section 100(i)(b) a corrupt practice committed by an election agent or with his consent, has the same effect as a corrupt practice committed by the candidate or with his consent. Under section 123 which defines corrupt practices the election agent is on the same footing as the candidate.

I am accordingly of the opinion that if the total expenditure authorised or incurred by the candidate and by his election agent exceeds the prescribed limit both of them are guilty of the corrupt practice under section 123(6), even if neither the candidate nor the election agent individually exceeded the prescribed limit. It is their joint responsibility to see that the expenditure incurred or authorised by the two of them does not exceed the prescribed limit. In this view of the matter paras 11 and 13 of the original petition contain an allegation of corrupt practice against the election agent of respondent No. 1.

Para 16 of the original petition runs as follows:—

"That the respondent No. 1, his election agent or other persons with the consent and authorisation of respondent No. 1 held big feasts at Bizapur, Bera, Mundara, Rupawas, Gundoj, Hatharlia, Mandha Thikanas, Badsu, Undarya Bera, Shyari Bori Mada, Gajnai, Karnol etc.

These feasts were held in order to induce electors to vote for respondent No. 1."

It has not been specifically alleged in the above paragraph that the election agent also consented to the holding of one of the feasts. An opportunity was given to the petitioner to furnish full particulars of the corrupt practice alleged under the above paragraph. He did not furnish the necessary particulars in accordance with the order of this Court. This paragraph was therefore deleted.

Para 24 of the original petition runs as follows:—

"That the respondent No. 1, his election agent and other persons with his consent and authorisation secured the assistance of Government servants Patwari, Gram Sewaks, teachers etc. for the election campaign of respondent No. 1."

The above paragraph contains a clear allegation that the election agent also secured the assistance of Patwaris who are Government servants covered by section 123(7)(f). Full particulars of the corrupt practice alleged under the above paragraph were not given in the original petition. The petitioner was given an opportunity of furnishing full particulars. As he failed to do so the above paragraph was deleted.

The effect of making a baseless allegation recklessly by a petitioner is the same as that of making a *bona fide* allegation.

Para 25 of the original petition runs as follows:—

"That the respondent No. 1, and his election agent and other persons by the consent of respondent No. 1 paid and offered bribes between

13th January 1967 to 14th February 1967 to induce electors directly or indirectly to vote for respondent No. 1.

The following amongst others are some of the instances:—

- (a) Rs. 2,000/- were paid to the Mukhia of Scheduled Caste voters in village Khudala in the night of 14th February, 1967, packets of sweets and Rs. 2/- to Rs. 5/- per voter were distributed in several houses.
- (b) Rs. 2/- to Rs. 5/- per voter were given to about 360 scheduled tribe voters of Sadri.
- (c) Rs. 7,500/- were paid for the community temple for the village Bavarriya Ka Jumba, Sadri and Rs. 100/- each were paid to 22 Mukhias.
- (d) Rs. 750/- were paid to one Hakkeram Meghwal of Sadri for scheduled caste voters of Chota Bhambhia Ka Bas.
- (e) Rs. 750/- were offered to Shri Kuparam Suthar, a trustee of Shri Laxmi Narain Temple Lunawas who refused to take the amount, but it was later paid to another Mukhia. This temple is worshipped by all Suthars of Dahi and Desuri Tehsils. Similar offers were made in other villages of these Tehsils.
- (f) Shri Mohanlal Bohara of Sadri was offered Rs. 2,000/- to induce him not to canvass for Congress and to secure voters for respondent No. 1.
- (g) Rs. 750/- were paid for the temple of the V. Bheetwara (Teh. Bali) through the Sarpanch.
- (h) Rs. 2,000/- were paid for the repairs of two temples at Bali.
- (i) Shri Abdul Batak of Dudni, Mohanlal Sharma of Buzapur, Shri Nathulal of Nava and Shri Tolaram of Nalnu were offered money to secure votes for respondent No. 1.
- (j) Shri Rama and Tola Meena of V. Riola were paid Rs. 200/- and 20 Kg of rice for the village feast. Money was paid similarly at Thandi Beri, Bilapur and several other villages.
- (k) that in the night of 14th February, 1967 in about 20 villages of Bali Constituency Biri bundles, match boxes, sweet packets and Rs. 2/- per voter were distributed along with voter slips.
- (l) that in about 50 villages of Bali Constituency 1 Kg. Gur was distributed per house on the day of meetings of Swatantra Party held during 13th January 1967 to 13th February 1967.
- (m) Rs. 5,000/- were promised to the Panchas of Ehat community of Reali for the repairs of the temple.
- (n) Rs. 500/- were paid to Maghwal Dhaana of Desuri Assembly Constituency.
- (o) Rs. 1,800/- were paid for Idgah at Kherwa and Rs. 5,000/- for school building.
- (p) Rs. 700/- were paid to Ghosis of Pali for purchase of grazing ground.
- (r) Rs. 500/- were paid at V. Sonar for school building and Rs. 1500/- for Sargara community.
- (s) Rs. 3,000/- were paid at V. Lambia for school building and Pyau.
- (t) Substantial amount was paid to the Bawaries of Lambia and Bhakariwala and Kumbaras and Mochis of Bagrae.
- (u) Handsome amount was paid for school building at Gadawari and Mahlia Shiksha Sangh, Ranawas.
- (v) More than Rs. 10,000/- were paid to labourers at Pali.
- (w) Rs. 100/- were paid at V. Kharda for school building.
- (x) Rs. 1,000/- were paid for repair of Mahadeoji temple at V. Basant (Sumerpu).
- (y) Rs. 10,000/- were paid in the wedding of the daughter of Kasrisingh ji of Jolawar and a transistor was presented to Thakur Sahib of Jagan.
- (z) Sarpanchas of villages in Kharchi Assembly Constituency were paid Rs. 500/- to Rs. 1,000/-.
- (aa) Rs. 2,000/- were paid to Khateeks of Kushalpura. Rs. 2,000/- were paid to Patels and Kumars of Kushalpura. Rs. 1,000/- were paid

- to Mochis of Raipur and Rs. 500/- were paid to Meghwals of Dhan-keri.
- (ab) A letter was addressed by Shri Taparia's agent Shri Pukhraj Kalani to Mukhias of village Deoli Udewatan and Banjakuri that if they vote for Swatantra candidate they will get their case pending in the court of Munsiff Magistrate Sojat compromised or will compensate them.
 - (ac) Shri Sukhlal Dave was paid Rs. 3,000/- to secure votes for Swatantra Party.
 - (ad) Clothes and money were distributed in Kotda and several other villages.
 - (ae) Rs. 2,000/- were paid for Masazid, Anjuwan at Kotda
 - (af) Rs. 2,000/- were paid for Higher Secondary School at Kotda.
 - (ag) Rs. 1,000/- were promised to Mukhias of Maghwal community of Gogunda for Ramdewara temple.
 - (ah) Employment was promised to several influential persons or persons connected with them for getting their support in securing votes for respondent No. 1.
 - (ai) Promised to employ persons in Mill and Factories which were promised to be established in Pali Parliamentary Constituency if votes were cast in favour of respondent No. 1.
 - (aj) Several houses were taken on rent for the offices and for residence of the respondent No. 1 and his workers at several places in the Pali Parliamentary Constituency.
 - (ak) That more than 150 jeeps, cars and other conveyance of the various companies at Jaipur, Bharatpur etc. were utilised in the election of respondent No. 1 between 13th January 1967 to 23rd February 1967. Several jeeps were also purchased for the election.
 - (al) That the posters and pamphlets were printed and published by respondent No. 1 in contravention of the provision of section 127-A of the Representation of the People Act, 1951."

In the opening part of the above paragraph there is a clear allegation that the election agent of the respondent also offered and paid bribes between 13th January 1967 and 14th February to induce the electors to vote for respondent No. 1.

It will thus be seen that clear allegations of corrupt practice were made against the election agent of respondent No. 1. It is not disputed that Shri R. D. Beriwal was the election agent of respondent No. 1 who had filed his nomination paper which had been accepted as valid and who was thus a candidate within the meaning of section 82(b). The election petition is thus liable to be dismissed under section 86(1) the provision of which is mandatory. In this connection I may refer to the decision of this Court in Shri Brij Mohan Lal v. Shri Fateh Singh and others (S.B. Election Petition No. 11 of 1967 decided on 12th May 1967).

I accordingly dismiss the election petition with costs in favour of respondent No. 1.

Respondent No. 2 supported the petition shall bear his own costs. The other respondents did not appear.

The petition was heard on 15th June 1967, 2nd July 1967, 1st August 1967, 29th August 1967 and 26th September 1967 to 29th September 1967. Respondent No. 1 was represented by more than one counsel. The case was heard on the last four days only for part of the day as evidence in another election petition was being recorded. I assess the advocates' fee in favour of respondent No. 1 at Rs. 750/-.

The substance of the above decision shall forthwith be communicated to the Speaker of the Lok Sabha and the Election Commission and an authenticated copy of the judgment shall be sent to the Election Commission as provided under section 103 of the Representation of People Act 1951.

(Sd.) JAGAT NARAYAN.

[No. 82/13/67(RJ).]

New Delhi, the 7th December 1967

S.O. 4468.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951, the Election Commission hereby directs that in column 3 of the Table appended to its notification No. 434/GJ/66, dated the 11th November, 1966 for the existing entry against 7. Bhavnagar, the entry "1. Prant Officer, Amreli" shall be substituted.

[No. 434/GJ/67.]

New Delhi, the 8th December 1967

SO. 4469.—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the Order, pronounced on the 22nd August, 1967, by the High Court of Judicature, Andhra Pradesh at Hyderabad in Election Petition No. 5 of 1967.

IN THE HIGH COURT OF JUDICATURE ANDHRA PRADESH AT HYDERABAD

(Ordinary Original Civil Jurisdiction)

Tuesday the twentysecond day of August one thousand nine hundred and sixty-seven

PRESENT

The Hon'ble Mr. Justice Anantanarayana Ayyar

ELECTION PETITION NO. 5/1967

AND

APPLICATION NOS. 166, 197 AND 198 OF 1967

Election petition No. 5 of 1967:

BETWEEN:

Putti Venkata Subbalah—Petitioner

versus

Smt. B. K. Radhabai.—Respondent.

Petition under section 81 of representation of People Act that the High Court may be pleased to declare the election of respondent to the House of People from Bhadrachalam (Schedule Tribes) Constituency as void and (2) to award costs of the petition.

Application 166 of 1967:

B. K. Radha Bai.

*Petitioner (Respt. in E.P. 5 of 67 on the file of the High Court).**Versus*

Putti Venkata Subbalah.

Respondent (Petitioner in do).

Application praying that for the reasons stated in the accompanied affidavit filed therein the high court may be pleased to dismiss the election petition No. 5 of 1967 on the file of the High Court.

Application No. 197 of 1967:

Putti Venkata Subbaiah.

Petitioner (petitioner in E.P. 5 of 1967 on the file of the High Court).

B. K. Radha Bai.

Respondent (Respt. In do).

Application praying that in the circumstances stated in the affidavit filed in support of application 198 of 1967 the high court may be pleased to excuse the delay in presenting the application No. 198 of 1967 petition to impleading Smt. Vani Ramnarao as a party respondent to the election petition No. 5 of 1967.

Application No. 198 of 1967:

Putti Venkata Subbalah.

*Petitioner (petnr. in E.P. No. 5 of 1967 on the file of the High Court).**Vs.*

1. B. K. Radha Bai
2. Smt. Vani Ramana Rao }

Respondents (respts. in do).

Application praying that in the circumstances stated in the accompanying affidavit the high court may be pleased to add Smt. Vani Ramanarao, as party respondent to the election petition No. 5 of 1967.

ORDER

This election petition and applications coming on for hearing on Thursday the 10th, Monday the 21st days of August, 1967 and this day and upon hearing the arguments of Mr. P. A. Chowdary, advocate for the petitioner in the election petition and application Nos. 197 and 198 of 1967 and the respondent in application No. 166 of 1967 and of Mr. Balamkonda Reddy advocate for the petitioner in application No. 166 of 1967 and respondents in E.P. 5 of 1967 and application No. 197 and 198 of 1967 the court made the following Order:—

Putti Venkata Subbaiah filed election petition No. 5 of 1967 on 7th April 1967, impleading as sole respondent, Smt. B. K. Radhabai and praying for reliefs as follows:—

- “(a) to declare the election of the respondent as void,
- (b) to award costs of the petition.”

The respondent filed a written statement contesting the petition. Various issues were framed and the case was posted for trial. Subsequently the sole respondent filed application No. 166 of 1967, praying for dismissing the election petition with costs. In it, she has urged the ground that the petition is bad for non-joinder of one Smt. Vani Ramanarao, who, according to the respondent is a candidate within the meaning of section 79(b) of the representation of the People Act, 43 of 1951 (Hereinafter referred to as the Act), and on the ground that the election petition discloses allegations of corrupt practices against her, falling under section 123(1) (B) (a) of the Act.

The election petitioner contested the petition.

The arguments were heard in full and closed on 10th August 1967. Order was reserved.

Subsequently on 14th August 1967 the same question was raised and argued in application No. 169 of 1967 in E.P. No. 13 of 1967 and in application No. 178 of 1967 in E.P. No. 6 of 1967. When those arguments on those petition and other applications incidental to and associated with them were heard. Sri P. A. Choudary, the learned counsel for the petitioner, sought permission to file two applications and I granted the permission.

The petitioner accordingly filed two applications on 21st August 1967. They are as follows; Application No. 198 of 1967 is filed praying to implead Smt. Vani Ramanarao as party respondent to election petition No. 5 of 1967 and to pass such other order as this court may deem fit. Application No. 197 of 1967 is filed to excuse the delay in presenting the application No. 198 of 1967.

In the election petition the petitioner has alleged as follows:—

“Bhadrachalam Parliamentary Constituency is reserved for Scheduled Tribes. Therefore, only an elector who belongs to Scheduled Tribes can contest for this seat. The respondent herein is ‘Doli’ by caste and is not a member of the Scheduled Tribes, and therefore, she is not qualified to contest from the aforesaid Bhadrachalam Parliamentary (S.T.) Constituency reserved for Scheduled tribes. However the respondent professing to be a (Koya) filed her nomination and got herself elected. The petitioner also submits that one Smt. P. Vani Ramanarao member of the Andhra Pradesh Legislative Council and the younger sister of the respondent had filed her nomination as an independent to the House of the People from the aforesaid Bhadrachalam reserved constituency. The respondent being doubtful of winning the election against her sister Smt. Vani Ramanarao who is a member of the Legislative Council, very popular in political and Official circles, occupying several places—requested Smt. Vani Ramanarao to withdraw from the election contest by promising her to pay the amount that is said to have been incurred by Vani Ramanarao in consideration of her withdrawal from the contest. Vani Ramanarao at the request of the respondent agreed to withdraw on the aforesaid terms. Accordingly the

respondent issued a cheque in the name of Smt. P. Vani Ramanarao for a sum of Rs. 1500/- on 23rd January 1967. The respondent also paid a sum of Rs. 1500/- in cash to Smt. Vani Ramanarao. Immediately Smt. Vani Ramanarao cashed that cheque in the Cooperative Central Bank at Bhadrachalam and realised the amount. Thereafter, in pursuance of the agreement, Smt. Vani Ramanarao withdrew her nomination at the last hour. The petitioner therefore submits that the election of the respondent is vitiated by the act of bribery."

The election petitioner urged some other corrupt practices.

On the basis of the pleadings in the election petition and the written statements, five issues were framed. The following issues are relevant for discussion in this order:

Issue No. 1:

Whether the respondent is a Doli by caste and is not a member of the scheduled tribes in Andhra Pradesh?

Issue No. 3:

Did the respondent induce Vani Ramanarao her own sister to withdraw from candidature to the Parliamentary seat in Bhadrachalam Constituency by paying her a sum of Rs. 3,000/- as consideration for the same? What is its effect?

Issue No. 5:

Whether K. P. Santhi Raju, S. Suvarna Kumar and T.G.S. Sundarrao are necessary parties to this petition? What is the effect of their non-inclusion?

ISSUE NO. 5 was the result of the contention in paras 4 and 5 of the election petition that the nomination papers of three persons mentioned in that issue ought to have been rejected, as they were improperly accepted, with the consequence that the result of the election was thereby materially affected.

I shall refer to the parties by their denomination in the main election petition and to Smt. Vani Ramanarao by her name in this order

In application No. 166 of 1967 it is urged as follows: The election petition contains allegations which amount to corrupt practices contemplated by s. 123 (1) (B) (a) of the Act by Smt. Vani Ramanarao by her receiving cash and cheque for withdrawing from her nomination, and by her, in pursuance of the agreement, actually withdrawing her nomination. Smt. Vani Ramanarao was a candidate within the meaning of section 79(b) of the Act. Therefore, Smt. Vani Ramanarao is a necessary party under section 82(b) of the Act. The non-joinder of Smt. Vani Ramanarao is fatal to the maintainability of the election petition. Therefore, election has to be dismissed under s. 86(1) of this Act.

The election petitioner filed a counter raising the following contentions:—

(a) The election petition was presented to the High Court on 7th April 1967 and thereafter it was referred to an Hon'ble Judge of this court for trial under section 86(2). I beg to state when once the High Court acting under section 86(2) did not dismiss the election petition the same cannot be dismissed after it has been referred for trial under section 86(2).—

(b) Smt. Vani Ramanarao is a Doli by caste and is not a person qualified to be nominated because she does not belong to any Scheduled Tribe and in fact it is one of the issues in the election petition whether a person belonging to Doli Caste is qualified or not qualified to contest from a Scheduled Tribe seat. I therefore beg to state that Smt. Vani Ramanarao is not a candidate who has been duly nominated as a candidate at the election. Therefore she is not a person who should have been added under Section 82(b).—

(c) The plea which is now taken in application No. 166/1967 has not been taken by the respondent during the course of the trial spread over all these months. The question whether Smt. Vani Ramanarao is a candidate or not is a mixed question of fact and law and cannot be decided merely on the vague and uncertain and inclusive allegations made conveniently by the respondent."

For convenience, I have marked the different portions as (a) (b) (c) as forming separate contentions:—

Though the learned advocate for the election petitioner did not specifically raise in his counter during the course of arguments he raised a contention as follows:—

(d) That section 86(1) of the Act is *ultra vires*, because it contravenes Article 14 of the Constitution as it provides for dismissal without allowing impleading of parties which is allowed in C.P.C. under order 1 rules 9, 10 and 13 to cure non-joinder of necessary parties. This point, being a pure question of law was allowed by me to be taken in the course of the arguments.

For proper understanding of the contentions of Shri P. A. Choudary and his arguments on these points the wording of some important sections of the Act is necessary to be extracted

Section 80-A runs thus:—

"High Court to try Election Petitions:

"(1) The Court having jurisdiction to try an election petition shall be the High Court.

(2) Such jurisdiction shall be exercised ordinarily by a single judge of the High Court and the Chief Justice shall, from time to time, assign one or more judges for that purpose".

Section 81 runs thus:—

"(1) An election petition... may be presented to the High Court by any candidate . . ."

Section 86 runs thus:—

"(1) The High Court shall dismiss an election petition which does not comply with the provisions of section 81 or section 82 or section 117.

Explanation.—An order of the High Court dismissing an election petition under this sub-section shall be deemed to be an order made under clause (a) of section 98.

(2) As soon as may be after an election petition has been presented to the High Court, it shall be referred to the Judge or one of the Judges who has or have been assigned by the Chief Justice for the trial of election petitions under sub-section (2) of section 80A.

(3) Where more election petitions than one are presented to the High Court in respect of the same election, all of them shall be referred for trial to the same judge who may, in his discretion try them separately or in one or more groups".

Section 87 runs as follows:—

"(1) Subject to the provisions of this act and of any rules made every election petition shall be tried by the high court as nearly as may be in accordance with the procedure applicable under the Code of Civil Procedure, 1908 to the trial of suits.

Provided that the High Court shall have the discretion to refuse for reasons to be recorded in writing to examine any witness or witnesses.... "

Section 98 runs as follows:—

"At the conclusion of the trial of an election petition the high court shall make an order—

(a) dismissing the election petition: or

(b) declaring the election of all or any of the returned candidates to be void,
or—"

Section 99 runs as follows:—

(1) "at the time of making an order under section 98, the high court shall also make an order—"

The first contention of Shri P. A. Choudary is that, at the time when the High Court receives the petition which is presented to it, the High Court is functioning as High Court and can dismiss the petition as High Court and that, once the case is referred to a Judge for trial ("we are not concerned in this case of the case being referred to more than one Judge"), from that stage onwards, the judge to whom it

is referred is a *persona designata* and functions as such and not as High Court and therefore, does not have power to dismiss it under section 86(1) of the Act."

Sri Choudary has relied on the decision in O.A.O.K. LAKSHMANAN CHETTIAR Vs. J. S. KANNAPPAR AND OTHERS (AIR 1927 Madras page 93). In that case, a Full Bench of the Madras High Court considered the question whether the Chief Judge of Small Causes Court was not a court subject to the machinery of the Civil Procedure Code, but a *persona designata* whose decision was not only not appealable but cannot be called up in revision. The order of the Chief Judge concerned was an order passed in revision pronouncing the nomination of a person for election as Councillor under the Madras City Municipal Act, 1919 to be invalid and directing the name to be struck off the list of nominations. The learned Judges referred to certain provisions in Rule 4 of the rules framed under the Madras City Municipal Act of 1919 and order 1 (a) Rule 6 of the rules of the Small Causes Court 1902 and observed as follows:—(at page 93).

"The argument is that if by any Act or rule a matter shall be referred to the Chief Judge alone, he is nevertheless acting as the court. We are of opinion that this rule only applied to cases where the reference made by the act or rule in question is clearly to the court, though functioning through the Chief Judge and that it leaves untouched the real question which we have to decide; namely, whether this power was conferred by R 4 made under the Municipal Act upon the Chief Judge as the court functioning through himself or upon him as a *persona designata*. Looking at the Municipal Act, it is clear that the draftsman of that act was quite alive to the distinction between the court of Small Causes (*vide* S. 59) and the Chief Judge of that court (*vide* S. 54). It is difficult to resist the inference that when the Chief Judge is referred to in the act he was meant to act as a *persona designata* and not as representing the court".

That conclusion depended upon the provisions in the act concerned in that case. Similarly, in MUNICIPAL CORPORATION OF RANGOON Vs. MA. SHAKUR (AIR 1928 Rangoon page 25) it was held by the Rangoon High Court that when by an act of the legislature, a new authority is constituted for the purpose of determining questions concerning rights which are themselves the creation of the act and a judge or presiding officer of a court as distinct from the court itself, is directed to perform the functions of the newly created authority then it must be presumed unless the contrary is expressly indicated or necessarily implied that the intention of the legislature was that the judge or the presiding officer should perform those functions as a person designated and not as a court. Therein it was also observed whether a civil court exercising special jurisdiction is *persona designata* or not will have to be inferred from a consideration of the special powers exercised and the special functions performed by it.

In the present case, section 80(A) specifically mentions that the jurisdiction to try an election petition is in the High Court and also calls it as 'Court having jurisdiction'. Section 81 mentions that presentation is to the High Court, and section 86 mentions that dismissal for non-compliance with the provisions of section 82 etc. is to be done by the High Court. The explanation to sub-section (1) of section 86 specifically mentions that dismissal under section 86(1) should be deemed to be an order made under section 98(a). An order under section 98(a) can be made only by a Judge after full trial i.e., only by a Judge to whom the election petition has been assigned by the Chief Justice under section 36(2) and who has followed the procedure prescribed in other portions of section 86 and conducted the trial as mentioned in section 86 and the following sections. This shows that an order of dismissal for non-compliance passed under section 86(1), is by the same authority who can pass order under section 98(a). From this, it follows that a Judge to whom an election petition is assigned by the Chief Justice under section 86(2) functions as High Court. Section 3 mentions that the same judge may try the several petitions separately or in groups and sub-sections 4, 5, 6 and 7 refer to what the Judge would be doing in the course of trial as acts done by the High Court.

So, from the wording of the various sections it is clear that the Judge to whom an election petition has been assigned functions as a High Court and not as *persona designata* and that a distinction between such judge and the High Court is a distinction without a difference.

Sri Choudary seeks support for his contention from the provisions of the act

as it stood before the amendment in 1966. The provisions for dismissal, before the amendment were as follows:—

"Section 85. If the provisions of section 81 or section 82 or section 117 have not been complied with, the Election Commission shall dismiss the petition..."
 "Section 86(1). If the petition is not dismissed under section 85 the Election Commission shall then refer the petition to an Election Tribunal for trial..."
 "Section 90(3). The Tribunal shall dismiss an election petition which does not comply with provisions of section 81, section 82 or section 117 notwithstanding that it has not been dismissed by the Election Commission under section 85".

By the amendment act of 1966 the trial of election petition by Tribunals was changed over to trial of election petitions by High Court under section 86(1) already extracted by me.

Shri Choudary contends that, originally there was scope for dismissal at two stages for non-compliance of the provisions etc., the first stage being the Commission and the second stage being the Tribunal. He contends that the intention of the legislature in enacting section 86(1) in place of old section 85 and old section 90(3) before amendment is that there should be dismissal only at one stage, and that could be done only by the authority who receives the petition and not by the authority to whom it is made over for trial (by the authority who receives it). This argument of Sri Choudary is based on the assumption that the amendment was with a view to see that there should be dismissal only at one stage instead of the original two stages, and a further assumption of the very fact which is in controversy viz., whether the Judge to whom an election petition is assigned by the Chief Justice under section 86(2) is different from the High Court which is mentioned in the present section 86(1) as competent to dismiss, and in section 81 as the High Court to which election petition may be presented.

Section 86(1) does not expressly by implication indicate that High Court shall have power to dismiss an election petition only before it is assigned to a Judge, or that it cannot be dismissed subsequently after assignment, by the Judge to whom it is assigned.

I find that the assumptions made by Sri Choudary are not well-founded or justified and that the contention of Sri Choudary is not acceptable in view of unmistakable and clear indications available in the wording of the various sections which have already been referred to by me.

CONTENTION (B):—

It has been held in the order in application Nos. 150 and 155 of 1967 by Kumarayya, J. dated 7th August 1967 (3) that a duly nominated candidate, who had withdrawn is a candidate under s. 79(b) of the Act, that if an allegation of corrupt practice is made against such a person that person has to be impleaded under S. 82(d) of the Act, and that if such person is not impleaded, the election petition has to be dismissed under S. 86(1) of the Act, which is a mandatory provision. Kumarayya J. has also held that a petition to amend an election petition by impleading a withdrawn candidate against whom a corrupt practice has been alleged in the original election petition cannot be allowed, and has to be dismissed. That decision is based on ample authority including the express words of the statute and decisions of the Supreme Court in *HAR SWARUP AND ANOTHER vs. BRIJ BHUSHAN SARAN AND OTHERS* (AIR 1967 Supreme Court, p. 836) AND *AMIN LAL VS. HUNNA MAL* (AIR 1965 Supreme Court, page 1243). That decision is binding on me and I respectfully follow it.

However, Sri Choudary, the learned advocate for the election petitioner contends that Smt. Vani Ramanarao is not a candidate under s. 79(b) of the Act, because (according to Sri Choudary) she is not duly nominated as a candidate. Beyond doubt or dispute, her nomination was accepted by the Returning Officer, and she withdrew after her nomination was so accepted. This is clear from the election petition itself. But Sri Choudary contends that she was a Dholi by caste and not a member of Scheduled Tribe, and therefore she could not be a duly nominated candidate, as only a person belonging to Scheduled Tribe can be validly nominated. (In this order, to avoid unnecessarily cumbersome language, no distinction is made between caste and scheduled tribe). It is mentioned by the election petitioner in his counter that it is one of the issues in the election petition, whether a person belonging to Dholi caste was qualified or not qualified to contest from a Scheduled Tribe seat. He obviously refers to issue No. 1. It relates only to whether the respondent is a Dholi by caste, and not a member of scheduled

tribe. This does not cover the question whether Smt. Vani Ramanarao is a Dholi by caste and not a member of the Scheduled Tribe. A decision on this issue can validly decide only regarding the respondent and can be binding on the respondent. This issue cannot be decided so as to be binding on Smt. Vani Ramanarao when she is not a party in this election petition. If there is to be an issue and finding in the election petition proceedings to be binding on her on the question as to whether she is a Dholi by caste she must first be impleaded. The mere fact that she is the sister of the respondent may be utilised as a basis of an argument to show that, if the respondent is a Dholi and not a member of the Scheduled Tribe, Smt. Vani Ramanarao also must be a Dholi and cannot be a member of the Scheduled Tribe. But such an argument cannot be accepted as against Smt. Vani Ramanarao and cannot be the basis of a finding that Smt. Vani Ramanarao was not a validly nominated candidate or a duly nominated candidate unless Smt. Vani Ramanarao is a party.

All the same Sri Balamukunda Reddy for the respondent points out that in W. P. No. 933 of 1957 (6) Smt. Vani Ramanarao was declared to be a Koya i.e., a member of the scheduled tribe. In that case the petitioner was the President of Scheduled Tribes' Association and prayed for a writ of *quo warranto* contending that Smt. Vani Ramanarao who had been elected to Bhadrachalam Assembly constituency on the scheduled tribe seat was void. A division bench of this court held that Smt. Vani Ramanarao was a Koya and that the election was not void. Sri Balamukunda Reddy contends that this is a judgment in rem because it adjudicates in a matter which affects the status of Smt. Vani Ramanarao and therefore, it has a value even as against the election petitioner. This contention is acceptable.

Sri Choudary contends that though the nomination of Smt. Vani Ramanarao was accepted she was not a duly nominated candidate, because in spite of her nomination having been accepted by the returning officer after scrutiny, the question whether she was a duly nominated candidate or not depends on the question being decided in this election petition on evidence as to whether a Dholi is a member of a Scheduled Tribe. It has to be noted that section 79(b) of the Act covers not only the person who has been duly nominated as a candidate but also a person who claims to have been duly nominated. The allegation in the election petition regarding Smt. Vani Ramanarao is that the respondent paid money to Smt. Vani Ramanarao, as mentioned in the election petition, which is as follows:—

"The respondent being doubtful of winning the election against her sister Smt. Vani Ramanarao who is a member of the Legislative Council very popular in political and official circles, occupying several places such as Director of Tribal, Financial Corporation member of the Senate, member of the State Tribes Advisory Council.....requested Smt. Vani Ramanarao to withdraw from the election contest by promising her to pay the amount.....".

The allegation in the election petition suggests that Smt. Vani Ramanarao herself certainly claimed to be a duly nominated candidate and must have been considered by the election respondent to be a duly nominated candidate. Therefore Smt. Vani Ramanarao is a candidate under section 79(b) of the Act. In this particular case, the case of the election petitioner is that the nomination of the respondent herself is not valid because she is a Dholi and not a member of the Scheduled Tribe. He has impleaded the respondent. He has alleged corrupt practice against Smt. Vani Ramanarao and so Smt. Vani Ramanarao also has to be impleaded. The withdrawal by Smt. Vani Ramanarao makes no difference to the necessity to implead her in view of the various decisions of the Supreme Court referred to by my learned brother, Kumarayya J. in his order in application Nos. 150 and 155 of 1967 when a corrupt practice is alleged against the withdrawn candidate. I, therefore, reject this contention.

CONTENTION (C):—

It is true that the contention has been taken in application No. 166 of 1967 which was filed after the issues were framed but before any witness were examined. The fact that it was not taken up at an earlier stage or in the written statement of the election respondent does not affect the validity of the contention or affect the liability of the election petition to be dismissed under the mandatory provisions of section 88(1) of non-compliance with section 82(b). This contention is not tenable.

CONTENTION (D):—

Shri Choudary contends that, in ordinary civil procedure as applied to suits and applications, the provisions of order 1 Rules 9, 10 and 13 C.P.C. are available whereas S. 86(1) does not allow the benefit of those provisions, that thereby S. 86(1) constitutes a procedure which is unduly disadvantageous to election petitioners as compared to ordinary civil procedure and that, therefore it contravenes Article 14 of the Constitution.

Article 329 of the Constitution runs as follows:—

"Notwithstanding anything in this Constitution—

- * * * *
- (b) no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate legislature."

The law made by the appropriate legislature in this case is contained in the provisions of the representation of the People Act (43 of 1951) including S. 86(1). This is the law as contemplated by the constitution. This fact is unaffected by the non-obstante clause in the beginning of Art. 329. The representation of the people act 1951. was made under the legislative powers vested in Parliament under item 72 of list 1 of Schedule VII which runs as follows:—

"Elections to Parliament, to the Legislatures of States... ."

Articles 245 and 246 run as follows:—

"245(1): Subject to the provisions of this constitution Parliament may make laws for the whole or any part of the territory of India"

"246(1): Notwithstanding anything in clauses (2) and (3) Parliament has exclusive power to make laws with respect to any of the matters enumerated in list 1 in the seventh schedule."

This power to make laws is certainly subject to the Fundamental Rights contained in part III and in particular to Article 14.

IN NAIN SUKH DAS AND OTHERS vs. THE STATE OF UTTAR PRADESH AND OTHERS (AIR 1953 Supreme Court page 384), it was observed by the Supreme Court as follows: (at page 385)

"Now it cannot be seriously disputed that any law providing for elections on the basis of separate electorates for members of different religious communities offends against Article 15(1) of the Constitution."

Article 15 (1) is one of the Articles declaring fundamental rights in para III of the Constitution. It is clear that a law regarding elections to be valid should not contravene the provisions of part III of the constitution including article 14.

In the STATE OF WEST BENGAL vs ANWAR ALI SARKAR AND ANOTHER AND HABIB MOHAMMAD AND TWO OTHERS (INTERVENERS) (1952 SCJ. page. 55 AIR. 1952 S.C. Page 75) it was laid down procedure which was less advantageous to concerned accused than the ordinary procedure which was applicable to other accused in other cases was hit by Article 14 of the Constitution. It was held that, in as much as a certain act mentioned no basis for difference of treatment prescribed in the Act (West Bengal special courts Act 1950 for trial of criminals in certain cases and for certain offences), it contravened article 14. That act laid down substantially different rules for trial of offences and cases then laid down in the general law of the land.

IN THE STATE OF BOMBAY AND ANOTHER vs. F. N. BALSARA (AIR. 1951 Supreme Court page 318), certain principles were laid down regarding article 14 as follows:— (at page 326).

"(1) the presumption is always in favour of the constitutionality of an enactment. ...

(3) The principle of equality does not mean that every law must have universal application for all persons who are not by nature attainment or circumstances in the same position and the varying needs of different classes of persons often require separate treatment.

* * * *

(6) If a law deals equally with members of a well-defined class, it is not obnoxious and it is not open to the charge of denial of equal protection on the ground that it has no application to other persons."

The above principles have been extracted in a later decision of the Supreme court in *RAMAKRISHNA DALMIA vs. JUSTICE TENDOLKAR* (AIR 1968 Supreme Court, page 538).

In *TRUAX vs. CORRIGAN* (66 Lawyers' Edition page 254), the following passage has been extracted with approval from the judgment in *BOWMAN vs. LEWIS* (25 Lawyers' edition page 989) (at page 265).

"for as before said, it (i.e., the equality clause) has respect to persons and classes of persons. It means that no person or class of persons shall be denied the same protection of the laws which is enjoyed by other persons or other classes in the same places and under like circumstances."

IN *FRANCIS BARBIER vs. PATRICK CONNOLLY* (28 lawyers' edition page 923 & 925) it was observed as follows (at pages 924-925).

"The 14th Amendment—undoubtedly intended—that equal protection and security should be given to all under like circumstances in the enjoyment of their personal and civil rights; that all persons should be equally entitled to pursue their happiness and acquire and enjoy property, that they should have like access to the Courts of the Country for the protection of their persons and property; the prevention of and redress of wrongs, and enforcement of contracts; that no impediment should be interposed to the pursuits of any one except as applied to the same pursuits by others in like circumstances; that no greater fortunes should be laid upon one than are laid upon others in the same calling and conditions, and that in the administration of criminal justice no different or higher punishment should be imposed upon one than such as is prescribed to all for like offences."

Assuming for the sake of argument that order 1 rules 9, 10 and 13 CPC do not apply to an election petition under any circumstances under the representation of the People Act 1951 as it now stands, the question is whether it would amount to a contravention of Article 14.

Order 1 Rules 9, 10 and 13 C.P.C. were held applicable to election petition under the representation of the People Act, 1951 as it stood in the year 1952 in *JAGANNATH vs. JASWANT SINGH AND OTHERS* (A.I.R. 1954 Supreme Court page 210).

Order 1 Rules 9, 10 and 13 apply to civil proceedings which are covered by the Civil Procedure Code.

The question is whether proceedings in election petitions are so substantially similar to civil proceedings under the civil procedure code that S. 86 (1), if it excludes the operation of order 1 rules 9, 10 and 13 would amount to unjust discrimination which is hit by Article 14 of the Constitution.

The nature of election proceedings has been dealt with in several authoritative decisions. S. 86 (1) makes a provision regarding part of the procedure in election proceedings section 87 (already extracted) lays down that provisions of Civil Procedure Code are to be followed subject to the provisions of the Representation of the People Act and of any rules made thereunder.

In *HARISH CHANDRA BAJPAI AND ANOTHER vs. TRILOKI SINGH AND ANOTHER* (AIR 1957 Supreme Court page 444) it has been held that the charges of corrupt practice are quasi criminal in character and allegation thereto must be sufficiently clear and precise to bring home the charges to the candidate.

In *JAGANNATH vs. JASWANT SINGH AND OTHERS* (AIR 1954 S. Court p. 210) their Lordships of the Supreme Court observed as follows: (at page 212).

"The general rule is well-settled that the statutory requirements of election law must be strictly observed and that an election contest is not an action at law or a suit in equity but is purely statutory proceeding unknown to the common law and that the court possesses no common law power."

As an election contest is not a action at law or a suit in equity and, if a court dealing with an election contest has no common law power, it cannot be said that the court should apply to an election contest a procedure which is prescribed for a suit in equity or an action at law. As election contest is a purely statutory proceeding unknown to common law it is open to the statute to prescribe procedure suitable for such a proceeding and the statute is not bound to prescribe any procedure which is the same as the procedure for trial of a suit in equity, or for

dealing with a civil action at law. It is true that the trial of the election petition is held by the High Court but it does not necessarily follow that civil procedure should be followed. The High Court in dealing with civil proceedings, sits as a civil court and follows appropriate civil procedure. When the High Court deals with criminal proceedings, and sits as a criminal court, it follows the appropriate procedure including the criminal procedure code. When the High Court deals with election petition, which is a purely statutory proceeding unknown to common law the High Court must follow the procedure prescribed by valid statute for such proceeding.

IN JAGANNATH vs. JASWANT SINGH AND OTHERS (AIR 1954 Su. Court page 210) it has also been laid down as follows (at page 212).

"It is also well settled that it is a sound principle of natural justice that the success of a candidate who has won at an election should not be lightly interfered with and any petition seeking such interference must strictly conform to the requirements of the law. None of these propositions however has any application if the special law itself confers authority on a Tribunal to proceed with a petition in accordance with certain procedure and when it does not state the consequences of non-compliance with certain procedural requirements laid down by it.In cases where the election law does not prescribe the consequence or does not lay down penalty for non-compliance with certain procedural requirements of that law the jurisdiction of the Tribunal entrusted with the trial of the case is not affected."

It cannot be said that the provision of S. 86(1) of the Act contravenes article 14 on the alleged ground that the benefits of order 1 rules 9, 10 and 13 of the code of civil procedure are not available to the election petitioner. It is open to the election law to make such relief available as was the case under the Representation of the People Act, 1951 as it stood in 1952 for non-compliance with section 82 or to make the provisions of order 1 rules 9, 10 and 13 not available to parties to an election petition.

I find that the contention of Sri Choudary that S. 86 (1) of the Act is *Ultra vires* because it contravened article 14 of the Constitution is not tenable and cannot be accepted.

Objections similar to in application no. 166 of 1967 praying for the same relief were also raised in the other election petitions as follows:—

- (1) application No. 169 of 1967 in E.P. 13/67; and
- (2) application No. 178 of 1967 in E.P. 6/67.

In those petitions certain contentions other than those argued by Shri P. A. Choudary, which I have discussed already in these petitions, were raised and argued Sri Choudary adopts those contentions also. Those contentions have been dealt with by me in application Nos. 169 of 1967 and 178 of 1967 and rejected by me as not sufficient ground for refusing the relief asked for in the petition to dismiss the election petition concerned. I, therefore, find no need to discuss them in these petitions separately or to repeat what I have stated about those contentions in those respective applications. I hold that the contentions raised by Shri P. A. Choudary and actually argued before me are not tenable.

I respectfully follow the decision of my learned brother, Kumarayya, J. in Application Nos. 150 and 155 of 1967 and hold that election petition No. 5 of 1967 suffers from defect of non-compliance of section 82(b) of the act for failure to implead Smt. Vani Ramanarao as a party, though the allegation of corrupt practice is made against her and therefore has to be dismissed under S. 86(1) of the Act.

But, before finally disposing of application No. 166 of 1967 the other two applications have also got to be considered.

APPLICATIONS NOS. 197 AND 198 OF 1967:—

As already pointed out application No. 197 of 1967 is to implead Smt. Vani Ramanarao as party—respondent to E.P. No. 5 of 1967 and application No. 198 of 1967 is to excuse the delay in filing application No. 197 of 1967.

The order made by my learned brother, Kumarayya, J. in application Nos. 150 and 155 of 1967 that the application for impleading a withdrawn candidate with

a view to cure the defect of non-compliance in the original election petition of S. 82(b) cannot be allowed, is binding on me. Application No. 198 of 1967 petition for excusing of delay, cannot be allowed because, in any case, the relief sought for in Application No. 197 of 1967 by way of impleading the party cannot be granted, on the principle laid down in SHAMLAL TAKAR DASS AGGARWAL vs. PUNJAB NATIAIONAL BANK LTD. AND OTHERS (AIR. 1960 Punjab page 370).

I, therefore, dismiss application Nos. 197 and 198 of 1967.

I allow application No. 166 of 1967. I dismiss Election Petition No. 5 of 1967 with costs; Advocate's fee Rs. 200/- (two hundred only).

In each of the applications, I direct party to bear his or her own costs.

(Sd.) V. KRISHNASWAMY,
Dy. Registrar.
[No. 82/AP/5/67.]

New Delhi, the 11th December 1967

S.O. 4470—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the Order, pronounced on the 27th September, 1967, by the High Court of Judicature at Bombay, Nagpur Bench, Nagpur, in Election Petition No. 16 of 1967.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY, NAGPUR BENCH,
NAGPUR

ELECTION PETITION No. 16 OF 1967

Ramprasad S/o Urkuda Baryekar and another—*Petitioners*

Versus

Sri Ashok Ranjitran Mehta—*Respondent*.

In the matter of Election Petition Under Section 81 of the Representation of the People Act, 1951 No. 43 of 1951).

M/s. A. S. Bobde and S. G. Kukdey Advs.—*for the petitioners*

M/s. B. A. Masodkar, T. L. Junakar and N. N. Deshpande, Advs.—*for the respondent*.

None for the Attorney General (though served).

(GORAM:—L. M. PARANJPE, J.)

27th Sept. 1967.

JUDGMENT

The petitioners, claiming to be electors, are questioning the election of the respondent, Shri Ashok Mehta, to the Parliament from the Bhandara Parliamentary Constituency, on the ground that he was disqualified for being chosen as a Member of Parliament as being a holder of office of profit under the Government.

Under orders of the Election Commission of India, the General Elections to the Parliament were held in February 1967. The respondent was one of the candidates for the election. As a result of the counting of votes, the Returning Officer declared on 26th February 1967 that the respondent, who had received the largest number of valid votes, was elected from that Constituency.

This election petition was based on the following allegations: The petitioners were electors enrolled in the electoral rolls of the Constituency and were therefore entitled to question the election. The respondent, who was a Minister, was holding an office of profit under the Government as a Member and Deputy Chairman of the Planning Commission. Under section 3(a) of the Parliament (Prevention of Disqualification) Act, 1959 (No. 10 of 1959), it was declared that an office, in so far as it is an office of profit under the Government of India held by a Minister for the Union, whether *ex-officio* or by name, would not disqualify the holder thereof for being chosen as a Member of Parliament. This provision, in effect and substance, entitles a person to carry with him the power

to remove the disqualification of an office which he chooses to occupy, and therefore this sub-section was in excess of the legislative competence conferred under article 102(1)(a) of the Constitution of India, which permits the Parliament to legislate in respect of an office for removing the disqualification of the holder. That provision does not contemplate leaving it to the holder to remove the disqualification of the office he may choose to occupy. This section 3(a) of the Parliament (Prevention of Disqualification) Act being *ultra vires* of the powers of the Legislature, the disqualification earned by the respondent as holder of an office of profit under the Government remains, and therefore his election is liable to be declared void under section 100(1)(a) of the Representation of the People Act, 1951.

The petition was challenged by the respondent on the basis of the following averments in his return and his affidavits in answer to interrogatories

The claim of the petitioners that they were electors who were entitled to question the election was denied. The respondent was not holding on the date of election or even prior thereto, an office of profit which would entail a disqualification for being chosen as a Member of Parliament under article 102 of the Constitution of India. He was never a Member of the Planning Commission and drew no salary or allowances as such Member. He was directly appointed its Deputy Chairman with effect from 2nd December 1963 and was getting a salary of Rs. 2,250/- in that capacity and other benefits carried by the post, but he was relinquishing a part of his monthly salary by voluntary surrender as detailed in the table annexed to the affidavit. On his appointment as a Minister of the Union, he resigned the salaried post of the Deputy Chairman of the Planning Commission, thereby ceasing to get such salary or benefits of that post and began to get salary and allowances only under the Salaries and Allowances of Ministers Act, 1952. After resigning his fulltime post of Deputy Chairman of the Planning Commission which carried a salary and allowances, he took over in the same afternoon as Deputy Chairman of the Planning Commission in his capacity as a Minister of the Union Government. This additional post of Deputy Chairman did not carry any salary or allowances and did not entitle him to get such salary or allowances. Under section 3(a) of the Parliament (Prevention of Disqualification) Act, 1959, it was declared that the office, in so far as it was an office or profit under the Government held by him as a Minister, whether *ex-officio* or by name, shall not disqualify him from being chosen as a Member of Parliament. This provision was not *ultra vires* of the powers of the Parliament but was within the powers given to it under article 102(1)(a) of the Constitution. He was therefore not disqualified for being chosen as a Member of Parliament. The petition has been filed for extraneous and is wholly *mala fide*. It was not filed or presented in accordance with law and was liable to be dismissed for that reason.

On these pleadings, the following issues were framed and my findings thereon are stated opposite.

| Issues | Findings |
|---|--|
| 1. Do the petitioners prove that they are entitled to challenge the election of the respondent as being electors in the Bhandara Parliamentary Constituency for the General Elections held in 1967, within the meaning of section 2(e) of the Representation of the People Act, 1951? | They have not proved it. |
| 2. (a) Do the petitioners prove that the respondent was holding an office of profit under the Government of India as being a Member of the Planning Commission? | He was not proved to be a Member of the Planning Commission. |
| (b) Do the petitioners prove that the respondent was holding an office of profit under the Government of India on the date of election as the Deputy Chairman of the Planning Commission? | Not proved. |
| (c) Does the respondent prove that he was holding the office of the Deputy Chairman of the Planning Commission | Yes. Respondent has proved it |

| Issues | Findings |
|--|--------------------------------|
| in his capacity as the Minister of Planning, and therefore he was not disqualified from contesting the election? | |
| 3. Do the petitioners prove that the respondent's election is liable to be declared void under clause (a) of sub-section (1) of section 100 of the Representation of the People Act, 1951, read with article 103(1) of the Constitution? | Not proved. |
| 4. Does the respondent prove that the petition is vexatious and false to the knowledge of the petitioners? | Vexatious but not false |
| 5. Relief and costs? | Petition dismissed with costs. |

Reasons for the findings

Before going to the merits of the case, I would first consider the preliminary objection raised on behalf of the respondent with regard to the jurisdiction of the Court to entertain and decide the petition or to adjudicate on the claim that a provision of the Parliament (Prevention of Disqualification) Act, 1959, hereinafter referred to as the Act No. 10 of 1959, was *ultra vires*. His contention, briefly stated, was as follows:

The petitioners were claiming a declaration that the election of the respondent was void under clause (a) of sub-section (1) of section 100 of the Representation of the People Act, 1951 (hereinafter referred to as the Act) read with article 102 of the Constitution. In order to succeed, it was necessary for the petitioners to satisfy the Court in terms of clause (a) of sub-section (1) of section 100 that on the date of the election, the respondent was disqualified to be chosen to fill the seat under article 102 of the Constitution as he was holding an office of profit. Under article 102(1)(a) of the Constitution, the disqualification of a person for being chosen a member of either House of Parliament arises "if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder". The Parliament had enacted the law, namely, Act No. 10 of 1959, and section 3(a) thereof declared that an office held by a Minister, whether *ex officio* or by name, shall not disqualify the holder there for being chosen as a member of Parliament. The office of Deputy Chairman of the Planning Commission held by the respondent was thus covered by this section 3(a) which was enacted under the powers given to the Parliament by the later half of clause (a) of article 102 of the Constitution and consequently on the facts of the case and the averments in the petition, the respondent did not hold any office of profit which would have disqualified him from being chosen as a Member of Parliament. In view of this position and in the absence of any averment that the post was not an office of profit under the Constitution, no question of any disqualification of the respondent which could attract section 100(1)(a) of the Act arose, and therefore the Election Tribunal had no jurisdiction to proceed with the petition which does not make out a case that the office held by the respondent was other than an office declared by Parliament by law not to disqualify its holder. Though ordinarily this Court had jurisdiction to go into the question of the *viros* of a legislation, such a question could not be allowed to be agitated in this election petition which itself was untenable because of absence of material averments as per article 102(1)(a) of the Constitution. The Court therefore had no jurisdiction to proceed with the decision of the election petition or the question of the *viros* of section 3(a) of Act No. 10 of 1959.

While not disputing that the petition did not contain several material averments on the point raised by Mr. Masodkar, Mr. Bobde contested the objection on the following grounds: The petitioners had complied with the first part of sub-clause (a) of clause (1) of article 102 of the Constitution, by pleading that the respondent was holding an office of profit under the Government of India. That office does not come within the exceptions carved out by the latter part of that sub-clause, because there was no law which excepts the respondent from being disqualified under the first part of that sub-clause. It was sufficient for the petitioners to plead the material fact that the respondent was holding an office of profit under the Government of India within the meaning of the first part of sub-clause (a), and if the respondent claimed to come within the exception carved out under the latter half of that sub-clause, by section 3(a) of Act No. 10 of 1959 it was for the respondent to plead the exception as was done in the present case.

Having shown under the first part of sub-clause (a) that the respondent was disqualified under the Constitution, it was not necessary for the petitioners to further plead that the office held by the respondent was also covered by the latter half of that sub-clause. It was not necessary for the petitioner to make negative pleadings on the point. Despite the omission of the petitioners to plead the relevant facts, the respondent had raised no objection to the maintainability of the petition in his written statement and had gone to trial on the averments as they were made. The objection could not therefore be raised at this stage. Once the respondent set up the provision of law purporting to fall under the latter half of sub-clause (a) of clause (1) of article 102 of the constitution, the petitioners were justified in claiming that the said provision in Act No. 10 of 1959 was *ultra vires* of the powers of the Parliament and therefore it was not a law within the meaning of that latter part of the sub-clause. Even though the amendment might have been belated, the respondent had accepted the adjournment costs which were saddled as a condition precedent for allowing the amendment and it was not now open to him to contend that the original petition or the petition as amended did not comply with the requirements of section 81 read with section 100(1)(a) of the Act. Even if the petitioners were to fail on merits, that would be no ground for saying that the petition itself was incompetent or that this Court had no jurisdiction either to entertain the petition or to go into the question of the vires of section 3(a) of Act No. 10 of 1959.

There is some force in the contention of Mr. Masodkar that the petition as originally drafted suffered for want of several material facts. It cannot also be denied that the petition was wanting in several other particulars and material facts which were relevant and important for deciding the case. Even so, the respondent did not raise any objection on the ground of the tenability of the petition because of want of these pleadings, and treated the petition as having been validly made to this Court. I do not think that it would be proper or just to entertain or to uphold these technical objections at such a late stage. Justice ought not to be denied or defeated merely because of failure to raise certain points, particularly when that failure was not challenged at any earlier stage. After the return of the respondent came on record, the petitioners were allowed to amend the petition by raising the ground that Act No. 10 of 1959 was *ultra vires* of the powers of Parliament, and therefore the respondent was not entitled to invoke the latter half of sub-clause (a) of clause (1) of article 102. The respondent has admittedly recovered costs which were saddled as a condition precedent for making the amendment and has thus acquiesced in the amendment which, having been allowed, must relate back to the date of the presentation of the petition itself. Having done it, I do not think that it was now open to the respondent to challenge the maintainability of the petition for want of proper averments. That amendment has now become binding on the respondent, and in that view, he cannot be allowed to urge that the election petition itself was incompetent or that Court had no jurisdiction to decide the question of the vires of section 3(a) of Act No. 10 of 1959, which would go to the root of the maintainability of the petition. The mere fact that the petitioners are not succeeding in their challenge to the vires of that provision of Act No. 10 of 1959 would not have the effect of making the petition itself incompetent. Under these circumstances, the preliminary objection must stand rejected.

Issue No. 1.—Mr. Bobde, advocate for the petitioner did not dispute that the burden was on the petitioners to prove this issue that they were entitled to challenge the election of the respondent as being electors within the meaning of Section 2(a) of the Act. The petitioner No. 1, Ramprasad (P.W. 1), was the only witness examined for proving this issue. He deposed that he was enrolled as an elector from the Turnar Assembly Constituency No. 131 which forms parts of the Bhandara Parliamentary Constituency and his name was recorded at serial No. 614 on page 7 of the copy of the electoral roll (Ex. 24). He also deposed that he had exercised his franchise in the last General Elections held on 18th February, 1967. Under section 81 of the Act, an election petition calling in question any election may be presented by any candidate at such election or by an elector. Sub-section (1) of section 62 provides that no person who is not, and except as expressly provided by the Act, every person who is, for the time being entered in the electoral roll of any constituency shall be entitled to vote in that constituency. Section 2(A) defines an elector as "a person whose name is entered in the electoral roll of that constituency for the time being in force and who is not subject to any of the disqualifications mentioned in section 16 of the Representation of the People Act, 1950. Thus the order to support his claim that he is an elector, it was necessary for the petitioner, Ramprasad (P.W. 1), to prove that

his name was duly entered in the electoral roll of the constituency which was in force at the time of the election.

In this connection, a reference to rules 32 and 33 of the Registration of Electors Rules, 1960, would be useful. Rule 32 provides that after the roll for a constituency has been finally published, one complete copy of the roll shall be maintained at the office of the registration officer. Rule 33 provides that every person shall have the right to inspect the complete copy of the electoral roll and other papers referred to in rule 32 and to get attested copies thereof on payment of the prescribed fees.

In order to support his contention that his name was so entered in the finally published electoral roll, the petitioners should have obtained and filed an attested copy of the relevant portion of that roll. However, that was not done. Instead, the petitioner Ramprasad filed Ex. 24 which purports to be a part of the electoral roll which was preliminarily published. It was not disputed that after such preliminary publications, people had a right to claim that a name may be included in the roll or may be deleted therefrom for stated reasons. Therefore, this preliminary copy of the roll (Ex. 24) which was published on 1st January, 1966, cannot be treated as a copy of the final roll which was in force on the date of election. Moreover, this copy, though purporting to bear the *fascimile* signature of the Registration Officer, is not an attested copy within the meaning of rule 33 of the Registration of Electors Rules 1960. The petitioner Ramprasad (P.W. 1), stated that this copy was given to him by Mr. Kumbhare advocate, prior to the election. It has to be noted that Mr. Kumbhare was a contesting candidate who had fought the election against the respondent. In fact, the petitioners were first trying to put Mr. Kumbhare in the witness box for introducing this uncertified and unauthorised copy but had to refrain from doing it on an objection being raised on behalf of the respondent that the name of Mr. Kumbhare was not stated in the list of witnesses. The cross-examination of this petitioner, Ramprasad (P.W. 1), showed that he did not and could not have any interest in the matter of this election petition and the petitioners obviously appear to have been used by some persons as tools for questioning the election of the respondent. Even Mr. Bobde, advocates for the petitioners, could not deny that the copy, (Ex. 24), could not be admitted on record and could not be said to provide a proper proof of the petitioner's name being entered in the final electoral roll which was in force on the date of election.

The contention of Mr. Bobde however was that the entries in the final electoral roll should be deemed to have been proved by the oral evidence of Ramprasad (P.W. 1). He was not in a position to substantiate or support that contention. The contents of a document cannot be proved by oral evidence and the original or an authenticated copy thereof ought to be on record but that had admittedly not been done. The Registration Officer or the Returning Officer could have been summoned with the original electoral roll but that also was not done. The oral statement of the petitioner Ramprasad, that his name was included in the final electoral roll cannot be accepted, particularly in view of his own stand that he was making the statement on the basis of the unauthorised copy of the preliminary electoral roll (and not the final roll) which he had filed as Ex. 24.

While not disputing that the petitioners had not substantiated their claim on this point, Mr. Bobde made two other submissions which cannot possibly be accepted. The first was that the petitioners should now be given a chance after they had closed their case to summon the Returning Officer or the Electoral Registration Officer with the final copy of the electoral roll. The issues were framed as far back as on 7th August, 1967. The petitioners had ample time to cite and summon the relevant witnesses, but that was not done, it was specifically stated by their counsel that they would only examine the petitioners and no other witnesses. The petitioners were thus ambling with the possibility of succeeding on this scanty material, and having failed in that gamble, they cannot now be allowed to urge that they should be given one more chance at this stage to reopen the case and to adduce the requisite evidence. Litigants are expected to be diligent in all litigations, and particularly so, in election petitions. The cross-examination of Ramprasad (P.W. 1) showed that he had taken no steps whatsoever to obtain the requisite documents or to apply for a certified copy of the electoral roll. Litigants, who have been so culpably negligent in the matter, of conducting their litigations, cannot claim the indulgence of being granted a chance at such a late stage to adduce proof in support of their claim. This prayer must stand rejected.

The second point raised by Mr. Bombde in this connection was that the claim of the petitioner No. 1 Ramprasad that he had exercised his franchise at the election was not subjected to any cross-examination and therefore must be accepted. He could not have been allowed to exercise his franchise without his name being entered in the final electoral roll, and therefore, it should be inferred in his favour that his name was and must have been included in the final electoral roll. The Explanation to section 81 of the Act shows that an elector means a person who is entitled to vote at the election to which the election petition relates, whether he has voted at such election or not. Therefore, the claim that he had voted at the election was neither here nor there. Moreover, the possibility of an elector casting his vote for or in the name of someone else, though his own name may not be in the electoral roll cannot be altogether ignored. I would pertinently point out that while framing issue No. 1 I had specifically referred to the definition of an elector in section 2(c) of the Act, and therefore the petitioners must be deemed to have knowledge of the necessity of obtaining and filing a copy of the electoral roll, but that had not been done.

Mr. Bobde was then contending that even though the copy (Ex. 24) was not authenticated as required by rule 33 of the Registration of Electors Rules, 1960, it was a minor defect and the evidence of the petitioner, Ramprasad, on the point should be accepted. I have already shown that this copy, whatever may be its value, is not of the final electoral roll but is a copy of the preliminary electoral roll as the note at the bottom of that copy would show. The matter of adducing proper proof that a person is an elector whose name is in the final electoral roll is not a formality but is a question of great substance. In *Ranjit Singh v. Pritam Singh* (A.I.R. 1966 S. C. 1626) the scheme of registration of electoral rolls was explained and it was pointed out that copy produced should by itself show that the candidate is qualified or not and the production of an incomplete copy of an electoral roll was a defect of a substantial character. The present case in hand stands on a worse footing, because the copy is not proved to be authentic. Consequently, this is not a formal defect as claimed by Mr. Bobde and the petitioners must thank themselves for their failure to adduce the requisite proof of their right to file the election petition.

As adumbrated the petitioner No. 1, Ramprasad, has not proved that he was an elector within the meaning of section 2(e) of the Act, so as to entitle him to file this election petition under section 81. No evidence whatsoever was led to prove that the petitioner No. 2 was an elector, and the learned advocates for the petitioners stated at the bar that they were not going to adduce any proof with regard to the right of the petitioner No. 2 to file this election petition. The net result therefore was that the petitioners had failed to prove that they were electors within the meaning of section 2(e) of the Act, who could have filed this election petition. Consequently, the election petition will have to stand dismissed on the ground that the petitioners have not proved that they were entitled to file this election petition. I find accordingly.

Issue No. 2(a) and (b).—Beyond making a bland assertion that the respondent was holding an office of profit under the Government of India as a Member and Deputy Chairman of the Planning Commission, the petitioners gave no further particulars regarding when the respondent was appointed a Member, as also the Deputy Chairman, of Planning Commission; who had appointed him; what was the profit that he was to get from these alleged offices; whether he was removable by the Government of India or by some other authority; what authority could take disciplinary action against him; and from what source his salary was to flow. It was indeed surprising that the petition should have been filed without raising any pleas on these and other incidental matters which were very material for deciding the claim that the respondent was holding an office of profit under the Government of India. I should have expected the respondent to ask for these particulars, but he himself came forth to make a full statement on the allegations without there being any particulars. He stated in his return and in the affidavits that he was never appointed a Member of the Planning Commission but was directly appointed its Deputy Chairman on 2nd December 1963 and held that post till he relinquished it on 24th January 1966 on his appointment as the Minister of Planning in the Central Cabinet. He had further stated that on such relinquishment of his paid charge of Deputy Chairman, the Prime Minister appointed him, in his capacity as the Minister of Planning, also to act as the Deputy Chairman, but he neither received nor was he entitled to receive any remuneration for the work or charge of the office of Deputy Chairman which he was holding from 24th January 1966 as the Minister of Planning. Even after this return and the affidavits in answer to the interrogatories were filed by the respondent, the petitioners took

no steps to amend their petition by pleading that even after ceasing to be the paid Deputy Chairman, he still continued to be a Member of the Planning Commission, or that he was getting or was entitled to get any profit out of that office which he was concurrently holding while being the Minister of Planning. If that was the case of the petitioner as was urged before me in the course of arguments, I should have expected the petitioners to amend their petition, so that the questions arising therefrom could have been put in issue and the parties could have led evidence thereon. Surprisingly, however, the petitioners, who are handling this petition in a cavalier like fashion, took no steps whatsoever to set out or plead their case or to give further and additional particulars. No explanation for the omission was forthcoming.

While accepting the position that the petition was defective on these grounds, Mr. Bobde raised two points. One was that the petitioners could not have knowledge about the orders passed by the Planning Commission or the Central Government with regard to the Members and Deputy Chairman of the Planning Commission, and therefore they could not be blamed for not raising these points. That contention cannot stand any scrutiny. As the documents produced by the respondent would show, orders of appointment of Members and office-bearers of the Planning Commission were issued by the Cabinet Secretariat and were published in the Government of India Gazette, Part I, Section 2. If they were serious on the point, the petitioners could have taken a thorough inspection of all the Government of India Gazettes, which would easily have been available to them, at least in the library of this Court. Nothing of that sort was however done, and I am not prepared to accept the claim that the petitioners could not have possibly found out the real facts.

The aforesaid contention of Mr. Bobde stood negatived by his next contention that in the interest of justice, the petitioners should now be allowed a chance to amend their petition by giving all these particulars and by leading evidence in support thereof. What the petitioners can now do could as well have been done by them in good time if they were serious in the matter. The cross-examination of Ramprasad (P. W. 1) shows that he is a petty labourer who is indebted and who has no interest whatsoever in the matter or prosecuting the petition. He did not even know what post the respondent was holding and stated in his evidence that according to him, the respondent was an official of the Finance Department either as a Member or Chairman and getting a salary for that work. Mr. Bobde was not in a position to support his prayer for enabling the petitioners to wake up now and to start getting information and then incorporating it in the petition, with a view to lead further evidence. As I remarked earlier, litigants, who are so culpably negligent in the matter of conducting their cases, cannot be allowed to have a second round of fight on the abstract grounds of interests of justice. Justice has to be done according to law, and when the petitioners have failed to take the steps which the law required them to do, they cannot now be allowed to say that they should be granted a chance for having a second round of fight with the respondent. This request is entirely untenable and must stand rejected.

Mr. Bobde then took me through the return and the affidavits filed by the respondent and the documents produced on his behalf for substantiating his contention that the respondent must have first been appointed a Member of the Planning Commission before he was appointed its Deputy Chairman and that the relinquishment of his charge as Deputy Chairman would still have the effect of his continuing as a Member and he would be entitled to get salary and profit from this notional post of a Member or the additional post of Deputy Chairman which he was holding in addition to the post of Minister of Planning. He wanted to support these contentions on the basis of certain statements in the affidavit of the respondent that the Deputy Chairman was appointed either from private Members or from Ministers, and that the Members were entitled to salary. He also relied on the documents produced by the respondent to urge that the salary which the respondent claimed to have obtained while working as the Deputy Chairman till 24th January 1966 was and could be only as a Member. His arguments no doubt evinced an enormous amount of labour and industry on his part, but it would not be possible to accept or consider them for the simple reason that the petitioners had pleaded no case on the point. The logical conclusion of his arguments was that though the petitioners had pleaded nothing, a case could be made out for them from the return of the respondent, and the burden was not on the petitioners but on the respondent to establish that he was not holding an office of profit. Both these positions were entirely untenable and unsupportable, and Mr. Bobde did not dispute that the mere fact that some loose language may have been used in the return and the affidavits of the respondent or in the

orders given to the Accountant General Central Revenues, New Delhi, with regard to the salary of the Members of the Planning Commission, would not have the effect of making out for the petitioners a case which they had never pleaded.

In *Deorao v. Keshav* (A.I.R. 1958 Bombay 314) the tests to be satisfied for proving that a person was holding an office of profit were laid down. The principal tests mentioned were : (i) what authority has the power to make an appointment to the office concerned, (ii) what authority can take disciplinary action and remove or dismiss the holder of the office, and (iii) by whom and from what source is his remuneration paid. Mr. Bobde was only relying on the observation that the third test regarding the source of remuneration was less important, but that did not mean that the other two tests were negatived or that the third test was non-existent. As adumbrated, the petitioners have neither pleaded nor proved any facts which would go to show that the respondent was holding an office of profit either as a Member or Deputy Chairman of the Planning Commission, or that the office was under the Government of India. In this connection, Mr. Bobde made certain comments on the respondent with reference to his statements in the return and the affidavits, as also the documents produced by him. I am afraid, that criticism was not justified. The learned advocate for the respondent had specifically offered to put the respondent in the witness-box if the petitioners desired to cross-examine him, but the learned advocate for the petitioners had stated that they did not want to cross-examine the respondent. Having denied that opportunity to cross-examine him the criticism levelled against him was not fair or justified. In the absence of pleadings and proof on the side of the petitioners and with the return, and particularly the affidavits of the respondent, remaining un rebutted, the conclusion must be inevitable that the respondent was not a Member of the Planning Commission at any time and did not remain or continue to be a Member on his relinquishment of the salaried post of Deputy Chairman from 24th January 1966 and that he was not getting and was not entitled to get any profit from the post of Deputy Chairman which he was holding in his capacity as the Minister of Planning from 24th January 1966 and on the date of election. I find accordingly.

Issue No. 2(c): Section 3(a) of Act No. 10 of 1959 is in the following words:

"It is hereby declared that none of the following offices, in so far as it is an office of profit under the Government of India or the Government of any State, shall disqualify the holder thereof for being chosen as, or for being, a member of Parliament, namely:—

- (a) any office held by a Minister, Minister of State or Deputy Minister for the Union or for any State, whether *ex-officio* or by name;

* * * * *

The notifications dated 31st January and 11th February 1966 produced by the respondent show that the respondent relinquished his charge of the salaried office of Deputy Chairman on 24th January 1966 and on the same day he took over charge also as Deputy Chairman on his appointment to that post in his capacity as the Minister of Planning. Paragraph 3 of the letter dated 21st May 1953 from the Deputy Secretary to the Government of India in the Planning Commission, to the Accountant General, Central Revenues, New Delhi, shows that Minister Members or Minister Deputy Chairman were not entitled to get any salaries when they held such posts while being Ministers. That was obviously because the Ministers were getting their salaries under the Salaries and Allowances of Ministers Act, 1952. The aforesaid documents would show that while holding the post of Deputy Chairman as a Minister, the respondent was not entitled to get any profit or salary; and even if he was to get any profit or salary, that post of Deputy Chairman held by him by name, as also *ex-officio*, would not result in a disqualification under article 102 of the Constitution because of the provisions of section 3(a) of Act No. 10 of 1959. It will therefore have to be held that the respondent was holding the office of Deputy Chairman of the Planning Commission from 24th January 1966 in his capacity as the Minister of Planning and therefore he was not disqualified from contesting the election. I find accordingly.

That would take me to the question of the vires of section 3(a) of Act No. 10 of 1959. The contention of Mr. Bobde in this connection was as follows: Section 3(a) of Act No. 10 of 1959 is *ultra vires* of article 102(1)(a) of the Constitution and is void in so far as it purports to remove the disqualification attaching to any and every office held by a Minister, not only *ex-officio* but also by name. The incidence and effect of the provision is that whenever a particular person holds any office, known or unknown, the person himself

removes the disqualification of all such offices not only by fortuitous circumstance that he happens to be also a Minister but further that he occupies the office by name. Thus, such a person in effect and substance carries with him the power to remove the disqualification of an office which he chooses to occupy. The said sub-section 3(a) of Act No. 10 of 1959 is therefore in excess of the legislative competence conferred under article 102(1)(a) of the Constitution which permits the Parliament to legislate only in respect of an office for removing the disqualification to the holder, and does not contemplate leaving it to the holder to remove the disqualification of the offices he may choose to occupy. Mr. Masodkar, advocate for the respondent, contended that these submissions were unwarranted.

The basic assumption of Mr. Bobde that the person himself removes the disqualification of offices held by him as a Minister, as also by name, is not warranted. He is also not right in assuming that the person, in effect and in substance, carries with him the power to remove the disqualification of an office. In the first half of sub-clause (a) of clause (1) of article 102 of the Constitution, a person is disqualified for being chosen as a Member of Parliament if he holds any office of profit. The latter half of that sub-clause limits the generality of the expression "any office of profit" in the first half by the clause "other than an office declared by Parliament by law not to disqualify its holder". There is no limitation imposed on the powers of the Parliament to pass an Act with regard to declaring by law that an office would not disqualify its holder. This unlimited and wide power has been given to the Parliament under the Constitution itself and therefore Mr. Bobde was not right in saying that the Parliament acted in excess of the power given to it. When the power was unlimited and untrammelled and was subject only to the discretion of the Parliament itself, there was no force in the contention that the Parliament had exceeded its powers in enacting clause (a) of section 3 of the Act No. 10 of 1959.

The second assumption of Mr. Bobde that the power to remove the disqualification of his office is wasted in the officer or official or that officer or official carries with him the power to remove the disqualification of the office which he chooses to occupy is again unwarranted. By this provision it is not left to the individual to decide to which office held by him the disqualification should attach or not. The Parliament has made a wide provision that none of the offices, in so far as they are offices of profit under the Government of India shall disqualify the holder thereof for being chosen as a Member of Parliament if the office is held by a Minister either *ex-officio* or by name. It is not the choice of an individual to hold a particular office, and at any rate, there is nothing on the record of this case to show that the respondent had chosen to occupy this office by his own volition. On the contrary, the record discloses that the office was imposed on him by the order of the Prime Minister who had appointed him to be the Deputy Chairman of the Planning Commission. In view of that fact, there would be no question of saying that he had chosen to occupy that office of Deputy Chairman by his own volition or that he has carried with him the power to remove the disqualification. The disqualification stands removed by the Parliamentary enactment and not by the voluntary choice of the individual Minister who happens to hold a particular office of profit, whether *ex-officio* or by name, in addition to his office of Minister. The Parliament had purported to act under the power given to it by the latter half of sub-clause (a) of clause (1) of article 102 of the Constitution by declaring in respect of an office that the disqualification, otherwise attaching thereto, shall not attach if the office is held by a Minister, whether *ex-officio* or by name. Mr. Bobde was not in a position to substantiate his contention that the Parliament had enacted that provision in excess of the legislative competence conferred upon it by article 102(1)(a) of the Constitution.

Mr. Bobde was then trying to raise several other grounds for saying that the provision was *ultra vires* of the powers of the Parliament, but none of them were raised by him till now and obviously he could not be permitted to raise these new grounds of which the other side had no notice. If the petitioners wanted to raise these grounds, there was nothing to prevent them from incorporating those grounds in the amendment to the petition. One such ground was that the Parliament had not applied its mind. In the first place, it is not open to the Court to inquire in what manner the Parliament has applied its mind to the question and it would not be permissible to examine the proceedings of the Parliament to find out in what manner the enactment was passed. Presumably, the Parliament knows what are the duties of the Ministers and what other offices of profit they are likely to hold, either *ex-officio* or by name. They have made this very wide enactment to cover all such offices, and Mr. Bobde was not right to assume that the Parliament had done it without applying its mind to the questions involved therein.

Mr. Bobde has not shown any satisfactory reason or ground for upholding his contention that the provision was *ultra vires* of the powers of the Parliament under article 102(1)(a). I may mention that this question of the vires of that provision would not fall for determination in the present case because of the failure of the petitioners to establish their basic assumptions that the office of Deputy Chairman of the Planning Commission, which the respondent was holding as the Minister of Planning on the date of election, was an office of profit or was an office of profit under the Government of India. I find that the provision in section 3(a) of Act No. 10 of 1959 is not *ultra vires* of the powers of the Parliament, and the respondent has proved that even if the office which he was holding was an office of profit under the Government, he was not disqualified from contesting the election in view of the provision of section 3(a) of Act No. 10 of 1959.

Issue No. 4.—The cross-examination of the petitioner No. 1, Ramprasad (P.W.1), would clearly show that he has been used only as a tool by someone else and the petition is vexatious. However, there is no definite material to come to the conclusion that it was false to the knowledge of the petitioners.

Issue No. 3.—In view of the findings recorded on the other issues, I find that the petitioners have failed to prove that the respondent's election was liable to be declared void under clause (a) of sub-section (1) of section 100 of the Representation of the People Act, 1951, read with article 102(1) of the Constitution.

Issue No. 5.—In the result, the petition is dismissed with costs. The petitioners shall bear their own costs and shall pay the costs of the respondent. Pleader's fees Rs. 3,600. A copy of the findings and the judgment be sent to the Election Commission.

By the Court,

Sd./- S. R. BHAVE,

Addl. Special Officer,

24-10-1967.

[No. 82/16/Nagpur/67.]

ORDERS

New Delhi, the 13th November 1967

S.O. 4471.—Whereas the Election Commission is satisfied that Shri Prithvi Singh, Village Barav Talla Kalifat, P.O. Barav, District Chamoli a contesting candidate for election to the House of the People from Tehri Garhwal Constituency has failed to lodge an account of his election expenses within the time and in the manner required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, after considering the representation made by the said candidate, the Election Commission is further satisfied that he has no good reason or justification for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Prithvi Singh to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. UP-HP/1/67.]

New Delhi, the 14th November 1967

S.O. 4472.—Whereas the Election Commission is satisfied that Shri Devi Saran Tyagi, Village Makarmatpur Sihera, P.O. Niwari, Tehsil Ghaziabad, District Meerut, a contesting candidate for election to the House of the People from Baghpat constituency has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate even after due notice has not given any good reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Devi Saran Tyagi to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. UP-HP/81/67(i).]

New Delhi, the 20th November 1967

S.O. 4473.—Whereas the Election Commission is satisfied that Shri Ram Krishna Rai, 24-Master Zahurul Hasan Road, Allahabad, District Allahabad, a contesting candidate for election to the House of the People from Chail constituency, has failed to lodge an account of his election expenses within the time and in the manner required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, after considering the representation made by the said candidate, the Election Commission is further satisfied that he has no good reason or justification for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Ram Krishna Rai to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. UP-HP/57/67.]

New Delhi, the 29th November 1967

S.O. 4474.—Whereas the Election Commission is satisfied that Shri Venkat Rao Raisum, Sukulpur, Pratapgarh, a contesting candidate for election to the House of the People from Pratapgarh Constituency, has failed to lodge an account of his election expenses within the time required by the Representation of the People Act, 1951, and the Rules made thereunder;

And, whereas, the notice issued to the candidate to show cause, if any, why he should not be disqualified for the failure, could not be served on him as his whereabouts were not known;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Venkat Rao Raisum to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. UP-HP/23/67.]

S.O. 4475.—Whereas the Election Commission is satisfied that Shri Ramji Rai, Village and P.O. Sherpurkalan, District Ghazipur a contesting candidate for election to the House of the People from Ghazipur Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate even after due notice has not given any good reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Ramji Rai to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. UP-HP/50/67.]

New Delhi, the 30th November 1967

S.O. 4476.—Whereas the Election Commission is satisfied that Shri Ambika Prasad Pande, Village and P.O. Dakinaon Keyar, District Sultanpur a contesting candidate for election to the House of the People from Amethi Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate even after due notice has not given any good reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Ambika Prasad Pande to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. UP-HP/24/67.]

S.O. 4477.—Whereas the Election Commission is satisfied that Shri Man Singh, Village Hotepur, P.O. Hilsari, District Farrukhabad a contesting candidate for election to the House of the People from Farrukhabad Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate even after due notice has not given any good reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Man Singh to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. UP-HP/68/67.]

S.O. 4478.—Whereas the Election Commission is satisfied that Shri Kalka Prasad, Village and P.O. Rajpur, District Kanpur a contesting candidate for election to the House of the People from Ghatampur Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate even after due notice has not given any good reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Kalka Prasad to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. UP-HP/63/67(1).]

S.O. 4479.—Whereas the Election Commission is satisfied that Shri Manni Lal Village and P.O. Baraur, District Kanpur a contesting candidate for election to the House of the People from Ghatampur Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate even after due notice has not given any good reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Manni Lal to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. UP-HP/63/67(2).]

New Delhi, the 1st December 1967

S.O. 4480.—Whereas the Election Commission is satisfied that Shri Tarlochan Singh, Gogi Hospital, Sadar Bazar, Karnal, a contesting candidate for election to the House of the People from Kaithal Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate even after due notice has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Tarlochan Singh to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. HN-HP/3/67/(6).]

S.O. 4481.—Whereas the Election Commission is satisfied that Shri T. G. S. Sundara Rao, Journalist, Bhadrachalam (Andhra Pradesh) a contesting candidate for election to the House of the People from 5-Bhadrachalam Constituency, has failed to lodge an account of his election expenses within time and in the manner required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, after considering the representation made by the said candidate, the Election Commission is further satisfied that he has no good reason or justification for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri T. G. S. Sundara Rao to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. AP-HP/5/67.]

S.O. 4482.—Whereas the Election Commission is satisfied that Shri Khubi Ram of Village Dabodha, P.O. Farukh Nagar, District Gurgaon, a contesting candidate for election to the House of the People from Mahendragarh Constituency, has failed to lodge an account of his election expenses in the manner required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate even after due notice has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Khubi Ram to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. HN-HP/7/67/(7).]

S.O. 4483.—Whereas the Election Commission is satisfied that Shri Ganga Dhar, House No. 605, Nai Basti, Gurgaon, a contesting candidate for election to the House of the People from Mahendragarh Constituency, has failed to lodge an account of his election expenses in the manner required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate even after due notice has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Ganga Dhar to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. HN-HP/7/67/(8).]

S.O. 4484.—Whereas the Election Commission is satisfied that Shri Kalyan, Village Durgapur Basoti, P.O. Shikarpur, District Bulandshahr, a contesting candidate for election to the House of the People from Bulandshahr Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate even after due notice has not given any good reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Kalyan to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. UP-HP/78/67.]

S.O. 4485.—Whereas the Election Commission is satisfied that Shri Ram Bharose Lal Katiyar, 14/13-Civil Lines, Kanpur a contesting candidate for election to the House of the People from Kannauj Constituency, has failed to lodge an account of his election expenses in the manner required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, after considering the representation made by the said candidate, the Election Commission is further satisfied that he has no good reason or justification for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Ram Bharose Lal Katiyar to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. UP-HP/67/67.]

S.O. 4486.—Whereas the Election Commission is satisfied that Shri Shobha Singh, Mohalla Khattriwara, Sikandrabad, District Bulandshahr a contesting candidate for election to the House of the People from Khurja Constituency, has failed to lodge an account of his election expenses in the manner required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, after considering the representation made by the said candidate, the Election Commission is further satisfied that he has no good reason or justification for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Shobha Singh to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. UP-HP/77/67.]

New Delhi, the 2nd December 1967

S.O. 4487.—Whereas the Election Commission is satisfied that Shri Jagdish Rai, 8A/101, Western Extension Area, Karol Bagh, New Delhi, a contesting candidate for election to the House of the People from Gurgaon Constituency, has failed to lodge an account of his election expenses in the manner required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate even after due notice has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Jagdish Rai to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. HN-HP/8/67/(9).]

S.O. 4488.—Whereas the Election Commission is satisfied that Shri Ram Saran Dass, s/o Hari Ram, House No. 136, Mohalla Santokhpura, G.T. Road, Phagwara Kapurthala District, a contesting candidate for election to the House of the People from Phillaur Constituency, has failed to lodge an account of his election expenses within the time and in the manner required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, after considering the representation made by the said candidate, the Election Commission is further satisfied that he has no good reason or justification for the failure.

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Ram Saran Dass to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. PB-HP/8/67/(1).]

S.O. 4489.—Whereas the Election Commission is satisfied that Shri Goujagin, Hansip Village, B.P.O. Hansip (Manipur), a contesting candidate for election to the House of the People from Outer Manipur Constituency, has failed to lodge an account of his election expenses within the time and in the manner required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, after considering the representation made by the said candidate the Election Commission is further satisfied that he has no good reason or justification for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Goujagin to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. MR-HP/2/67(19).]

S.O. 4490.—Whereas the Election Commission is satisfied that Shri Dharam Chand Jallan, A/11, Kailash Colony, New Delhi, a contesting candidate for election to the House of the People from Gurgaon Constituency, has failed to lodge an account of his election expenses within the time required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the notice to show reason or explanation for the failure has been received back undelivered;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Dharam Chand Jallan to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. HN-HP/6/67/(16).]

New Delhi, the 5th December 1967

S.O. 4491.—Whereas the Election Commission is satisfied that Shri Jia Ram, House No. 163, Village Kurar Ibrahim, Tahsil Sonapat, a contesting candidate for election to the House of the People from Rohtak Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate even after due notice has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Jia Ram to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. HN-HP/4/67/(10).]

S.O. 4492.—Whereas the Election Commission is satisfied that Shri Bhim Singh, House No. 272, Village and P.O. Dharana, Tahsil Gohana, a contesting candidate for election to the House of the People from Rohtak Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate even after due notice has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Bhim Singh to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. HN-HP/4/67(11).]

New Delhi, the 6th December 1967

S.O. 4493.—Whereas the Election Commission is satisfied that Shri Nathu Dass, V. Phetana, District Ganganagar a contesting candidate for election to the House of the People from Ganganagar constituency, has failed to lodge an account of his election expenses within the time and in the manner required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, after considering the representation made by the said candidate the Election Commission is further satisfied that he has no good reason or justification for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Nathu Dass to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. RJ-HP/1/67(1).]

S.O. 4494.—Whereas the Election Commission is satisfied that Shri Bachna Ram, Nohar (Ganganagar) a contesting candidate for election to the House of the People from Ganganagar constituency, has failed to lodge an account of his election expenses within the time and in the manner required by the Representation of the People Act, 1951, and the Rules made thereunder.

And whereas, after considering the representation made by the said candidate, the Election Commission is further satisfied that he has no good reason or justification for the failure;

Now therefore, in pursuance of section 10A of the said Act, Election Commission hereby declares the said Shri Bachna Ram to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. RJ-HP/1/67(2).]

S.O. 4495.—Whereas the Election Commission is satisfied that Shri Harphul Singh of Village and P.O. Nehla, Tahsil Fatahabad, a contesting candidate for election to the House of the People from Sirsa Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate even after due notice has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Harphul Singh to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. HN-HP/9/67/(12).]

New Delhi, the 7th December 1967

S.O. 4496.—Whereas the Election Commission is satisfied that Shri Daryao Singh, Delhi Road, Rohtak, a contesting candidate for election to the House of the People from Jhajjar Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate even after due notice has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Daryao Singh to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. HN-HP/5/67(13).]

S.O. 4497.—Whereas the Election Commission is satisfied that Shri Bhim Singh, Village and P.O. Sehri, Tehsil and District Rohtak, a contesting candidate for election to the House of the People from Jhajjar Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate even after due notice has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Bhim Singh to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the

Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. HN-HP/5/67(14).]

S.O. 4498.—Whereas the Election Commission is satisfied that Shri Lachhmi Narain, Kath Mandi, Ward No. 3, Sonepat, a contesting candidate for election to the House of the People from Jhajjar Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate even after due notice has not given any reason or explanation for the failure;

Now therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Lachhmi Narain to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. HN-HP/5/67(15).]

New Delhi, the 8th December 1967

S.O. 4499.—Whereas the Election Commission is satisfied that Shri Somar Sai a contesting candidate for election to the House of the People from Surguja constituency, has failed to lodge an account of his election expenses in the manner as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas the said candidate, even after due notice has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Somar Sai to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. MP-HP/10/67.]

New Delhi, the 12th December 1967

S.O. 4500.—Whereas the Election Commission is satisfied that Shri N. Achuthan Nair, Devicolum Estate, Workers' Union Office, Munnar (Kerala State), a contesting candidate for election to the House of the People from the Muvattupuzha Parliamentary Constituency, has failed to lodge an account of his election expenses within the time required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas the said candidate, even after due notice, has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri N. Achuthan Nair to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. KL-HP/11/67(1).]

By Order,

K. S. RAJAGOPALAN, Secy.

MINISTRY OF HOME AFFAIRS

New Delhi, the 11th December 1967

S.O. 4501—In exercise of the powers conferred by section 3 of Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government hereby specifies the following offences as the offences which are to be investigated by the Delhi Special Police Establishment, namely :—

- (a) Offences punishable under sections 277 and 278 of the Income Tax Act, 1961 (43 of 1961).
- (b) Offences punishable under sections 9 and 17 of the Central Excises and Salt Act, 1944 (1 of 1944).
- (c) Offences punishable under sections 196, 199 and 200 of the Indian Penal Code (45 of 1860).
- (d) Attempts, abetments and conspiracies in relation to or in connection with one or more of the offences mentioned in clauses (a) to (c) and any other offence committed in the course of the same transaction arising out of the same facts.

[No. 25/4/64-AVD-IL.]

ORDER

New Delhi, the 11th December 1967

S.O. 4502—In exercise of the powers conferred by sub-section (i) of section 5 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government hereby extends to the States of Andhra Pradesh, Assam, Bihar, Gujarat, Haryana, Kerala, Madhya Pradesh, Madras, Maharashtra, Mysore, Nagaland, Orissa, Punjab, Rajasthan, Uttar Pradesh and West Bengal, the powers and jurisdiction of the members of the Delhi Special Police Establishment for the investigation of any offences specified in the Schedule hereto annexed.

SCHEDULE

- (a) Offences punishable under sections 277 and 278 of the Income Tax Act, 1961 (43 of 1961).
- (b) Offences punishable under sections 9 and 17 of the Central Excises and Salt Act, 1944 (1 of 1944).
- (c) Offences punishable under sections 196, 199 and 200 of the Indian Penal Code (45 of 1860).
- (d) Attempts, abetments and conspiracies in relation to or in connection with one or more of the offences mentioned in clauses (a) to (c) and any other offence committed in the course of the same transaction arising out of the same facts.

[No. 25/4/64-AVD-IL.]

C. A. NAIR, Under Secy.

New Delhi, the 12th December 1967

S.O. 4503—In exercise of the powers conferred by clause (2) of article 77 of the Constitution, the President hereby makes the following rules further to amend the Authentication (Orders and Other Instrument) Rules, 1958 namely :—

1. (1) These rules may be called the Authentication (Orders and Other Instruments) Eight Amendment Rules, 1967.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In rule 2 of the Authentication (Orders and Other Instruments) Rules, 1958, for clause (ab) the following clause shall be substituted, namely :—

“(ab) in the case of orders and other instruments relating to the Ministry of Finance, Department of Revenue and Insurance, by the Commissioner (Revision Applications) or the Director or Assistant Director, Tax Credit (Export) Division, in that Department; or”.

[No. 3/11/67-Pub-I.]

K. R. PRABHU, Jt. Secy.

New Delhi, the 15th December 1967

S.O. 4504.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Manipur Employees (Revision of Pay) Rules, 1966.

2. These rules may be called the Manipur Employees (Revision of Pay) Rules, 1967.

3. In schedule to the Manipur Employees (Revision of Pay) Rules, 1966,

(i) Under the heading "Medical Department", for the existing entry in column 4 against item No. 14, the following entry shall be inserted:—
Rs. 125—4—145—EB—4—1651—B—5—200.

(ii) Under the heading 'Statistical Department' for the existing entry in column 4 against item No. 7, the following entry shall be inserted:—
Rs. 125—4—145—EB—4—1651—B—5—200.

[No. 1/16/65-HMT.]

V. P. MALHOTRA, Dy. Secy.

MINISTRY OF FINANCE

(Department of Economic Affairs)

New Delhi, the 5th December 1967

S.O. 4505.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the National Savings Organisation (Class I and Class II Posts) Recruitment Rules, 1963, namely:—

1. (1) These rules may be called the National Savings Organisation (Class I and Class II Posts) Recruitment (Second Amendment) Rules, 1967.

(2) They shall come into force on the date of the publication of these rules in the Official Gazette.

2. In the Schedule to the National Savings Organisation (Class I and Class II Posts) Recruitment Rules, 1963—

(i) against items 1 to 4, in the entries in column 10, for the words "Transfer/Deputation ordinarily not exceeding four years", the words and brackets "Transfer/Deputation (period of deputation ordinarily not exceeding four years)" shall be substituted;

(ii) against items 5 and 7, in the entries in column 10, for the words "Transfer/Deputation ordinarily not exceeding three years", the words and brackets "Transfer/Deputation (period of deputation ordinarily not exceeding three years)" shall be substituted.

[No. F. 16(12)-NS/67.]

V. S. RAJAGOPALAN, Under Secy.

(Department of Economic Affairs)

New Delhi, the 8th December 1967

S.O. 4506.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government, on the recommendation of the Reserve Bank of India, extends for a period of one year till the 31st December, 1968, the exemption granted in S.O. 3906 dated the 24th December 1966, to the National Bank of Pakistan, Calcutta and the Habib Bank Ltd., Bombay, from the provisions of sub-section (2) of section 11 of the said Act.

[No. F.17(17)-BC/66.]

V. SWAMINATHAN, Under Secy

(Department of Economic Affairs)*New Delhi, the 12th December 1967*

S.O. 4507.—In pursuance of sub-section (2) of section 21 of the Industrial Finance Corporation Act, 1948 (15 of 1948), the Central Government, on the recommendations of the Board of Directors of the Industrial Finance Corporation of India hereby fixes 6 per cent per annum as the rate of interest payable on the bonds to be issued by the said Corporation in January, 1968 and maturing on the 1st January, 1969.

[No. F. 2(67)-Corp/67.]

A. K. NATARAJAN, Under Secy.

(Department of Revenue and Insurance)**STAMPS***New Delhi, the 2nd December 1967*

S.O. 4508.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the stamp duty with which the *ad hoc* bonds to the value of thirty five lakhs of rupees to be issued by the Jammu and Kashmir State Financial Corporation, are chargeable under the said Act.

[No. 13/67—F. No. 1/72/67-Cus. VII/Stamps.]

M. S. SUBRAMANYAM, Under Secy.

(Department of Revenue and Insurance)**INCOME-TAX ESTABLISHMENTS***New Delhi, the 6th December 1967*

S.O. 4509.—In pursuance of clause (b) of sub-rule (ii) of rule 2 of the Appellate Tribunal Rules, 1946, the Central Government was pleased to appoint Shri R. Srinivasan, Income-tax Officer, Class II Madras as Junior Authorised Representative, Income-tax Appellate Tribunal, Madras, to appear, plead and act for any Income-tax authority who is a party to any proceedings before the Income-tax Appellate Tribunal, Madras from 18th May, 1966 to 15th August, 1967.

[No. 353.]

S.O. 4510.—In pursuance of clause (b) of sub-rule (ii) of rule 2 of the Appellate Tribunal Rules 1946, the Central Government has been pleased to appoint Shri P. R. Sarma, Income-tax Officer, Class II, Madras as Junior Authorised Representative, Income Tax Appellate Tribunal, Madras with effect from the forenoon of 16th August, 1967 to appear, plead and act for any Income Tax authority who is a party to any proceeding before the Income-tax Appellate Tribunal, Madras.

[No. 354.]

M. G. THOMAS, Under Secy

(Department of Revenue and Insurance)*New Delhi, the 7th December 1967*

S.O. 4511.—In pursuance of clause (c) of sub-rule (1B) of rule 126HH of the Defence of India Rules, 1962, the Central Government hereby makes the following further amendments in the notification of the Government of India, Ministry of

Finance, Department of Revenue and Insurance, S.O. No. 3694, dated the 1st December, 1966, namely:—

In the said notification, in the Table below the Note—

- (1) in the entries relating to serial number 7, against the entries corresponding to item (ii) of column (2), for the existing entry in column (3) the following entry shall be substituted, namely:—

“An Officer not below the rank of Assistant Gram Sevak or Talathi of Zila Parishads or of the Revenue Department”.

- (2) after serial number 21 and the entries relating thereto, the following shall be added, namely:—

| (1) | (2) | (3) |
|-----|-----|-----|
|-----|-----|-----|

| | | |
|------|---------|--------------------------------|
| “22. | Haryana | Tahsildars or Naib Tahsildars. |
|------|---------|--------------------------------|

| | | |
|----|-------------|---------------------------------------|
| 23 | Pondicherry | Revenue Officers or Village Munsifs.” |
|----|-------------|---------------------------------------|

[No. F 3/25/67-GC.-II.]

JASJIT SINGH. Jt. Secy.

THE MADRAS CENTRAL EXCISE COLLECTORATE, MADRAS

CENTRAL EXCISE

Madras, the 5th December 1967

S.O. 4512.—In pursuance of Rule 233 of the Central Excise Rules 1944, the undersigned directs that in the register prescribed in this Collectorate Notification C. No. V/19/30/36/65.C.E -Pol., dated 5th June, 1965 [Published in S.O. No. 2508, Part II, Section 3(II), dated 14th August, 1965 of the Gazette of India], an additional column viz., column No. 11, as in Appendix I, shall be inserted.

And in addition to the above, two registers as in Appendices II and III shall also be maintained by licensed processors of cotton fabrics.

USA 2, 1889 4749

23, 1, USA 2, 1889

4749

APPENDIX II

Baling Register

| Date | Bale No. | Name of the parent Mill | Quantity | Linear metre per piece | Total No. of pieces | Linear metre | Width | Sq. metre | Net weight | Gross weight | Processing card under which the fabrics were processed (i.e. Col. 2 of the processing register) | Remarks |
|------|----------|-------------------------|----------|------------------------|---------------------|--------------|-------|-----------|------------|--------------|---|---------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 |
| | | | | | | | | | | | | |
| | | | | | | | | | | | | |

APPENDIX III

Register showing the Balewise receipt of Cotton Fabrics and issued thereof for processing

| Sl. | Formation from which received | A.R.3No. & date/document No. & date under which received. | S. No. marked on each bale (each No. to be written on a separate line one below the other) | Variety-fine/ superfine ect., & the No. allotted to the cotton fabrics by the parent mill. | Quantity | | Date on which each bale is issued from grey store-room to the processing section. | Date on which issued for processing (stitching) | Processing (stitching) card No. under which taken for processing (i.e. S. No. shown in col.2 of the processing register). |
|-----|-------------------------------|---|--|--|--------------|-----------|---|---|---|
| | | | | | Linear metre | Sq. metre | | | |
| 1 | 2 | 3 | 4 | 5 | 6(a) | 6(b) | 7 | 8 | 9 |

[C. No. V(19)30/14/65-CX-I.]

S. VENKATARAMAN, Collector.

MINISTRY OF COMMERCE

(Office of the Deputy Chief Controller of Imports and Exports)

ORDER

Panjim, Goa the 30th November 1967

S.O. 4513.—M/s. Caxinata P. Camotin & Irmao, Panjim were granted an import licence No. P/EI/0004348-C/XX/23/C/G/23-24, dated 3rd June, 1966. They have applied for a duplicate Customs Purposes Copy of the licence on the ground that the Original Copy of the Customs Purposes Copy of the licence has been lost. It is further stated that the original licence was not registered with any Customs Authority and has been partly utilised to the extent of Rs. 202. In support of this contention, the applicant has filed an affidavit.

I, R. D. Pawar, Dy. Chief Controller of Imports and Exports, Panjim-Goa in the Ministry of Commerce, in exercise of the powers conferred by Clause 9 of Import (Control) Order, 1955, hereby cancel the Original Customs Purposes Copy of import licence No. P/EI/0004348-C/XX/23/C/G/23-24, dated 3rd June, 1966.

[No. EI/293-95-97-IV/10/AM67.]

R. D. PAWAR,

Dy. Chief Controller of Imports and Exports.

(Office of the Joint Chief Controller of Imports and Exports)

(Central Licensing Area)

ORDER

New Delhi, the 1st December 1967

S.O. 4514.—The licences Nos. (1) P/SS/1506265/C, dated 22nd July, 1966 for Rs. 3,150 for the import of Permissible Dyes Intermediate and (2) P/SS/1573801/C, dated 26th August, 1966 for Rs. 16,000 for the import of Permissible Dyes Intermediate were issued to M/s. Mewar Thread Works, Moyied Pura, Bohrawadi, Udaipur (Rajasthan).

2. Thereafter, a show cause notice No. M-7/67/Enf/CLA/3328, dated 29th September, 1967 was issued asking them to show cause within 10 days as to why the said licences in their favour should not be cancelled on the ground that the Central Government is satisfied that the licences will not serve the purpose for which these were granted in terms of Clause 9(cc).

3. In response to the aforesaid show cause notice no reply has been received from M/s. Mewar Thread Works, Moyied Pura, Bohrawadi, Udaipur (Rajasthan).

4. The undersigned has carefully examined the case and has come to the conclusion that the party have no defence to urge and have avoided a reply.

5. Having regard to what has been stated in the proceeding paragraph, the undersigned is satisfied that the licences in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of the powers vested in him under Clause 9(cc) of the Imports (Control) Order, 1955 hereby cancel the aforesaid licences issued in favour of M/s. Mewar Thread Works, Moyied Pura, Bohrawadi, Udaipur (Rajasthan).

M/s. Mewar Thread Works,
Moyied Pura, Bohra Wadi,
Udaipur (Rajasthan).

[No. M-7/67/ENF/CLA/3925.]

J. S. BEDI,

Jt. Chief Controller of Imports and Exports.

(Office of the Chief Controller of Imports and Exports)

ORDER

New Delhi, the 7th December 1967

S.O. 4515.—In exercise of the powers conferred by clause 9 of the Imports (Control) Order, 1955, dated 7th December, 1955 as amended, the undersigned hereby cancels both the customs purposes copy and Exchange purposes copy of

Import Licence No. G/RP/2441088/C/XX/24/CH/24, dated 8th March, 1967 for the importation of 'National Wireless Microphone System Model CM-232-A and Feeder Cable 3 C-2V etc. falling under I.T.C. Schedule No. 289/IV, valued at Rs. 685 issued in favour of M/s. Photophone Equipments Limited, Bombay.

The reason for cancellation of the licence is that the foreign suppliers had regretted their inability to supply the goods.

[No. 4-P/Rly/66-67/GLS/895.]

S. A. SESHAN,

Dy. Chief Controller of Imports and Exports.

MINISTRY OF HEALTH AND FAMILY PLANNING

(Department of Health)

New Delhi, the 11th December 1967

S.O. 4516.—In exercise of the powers conferred by sub-section (2) of section 8 of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby makes the following further amendment in the notification of the Government of India in the late Department of Education, Health and Lands No. 43-6/37-H, dated the 3rd June, 1937, namely:—

In the said notification the words a non-pensionable permanent shall be omitted.

[No. F. 4-55/65-MPT.]

L. K. MURTHY, Under Secy.

MINISTRY OF TRANSPORT AND SHIPPING

(Transport Wing)

New Delhi, the 14th December 1967

S.O. 4517.—In pursuance of rule 25 of the Inter-State Transport Commission Rules, 1960, the Central Government hereby appoints Shri S. Balakrishnan, Joint Secretary and Legal Adviser, Department of Legal Affairs, Ministry of Law as member of the Inter-State Transport Appellate Tribunal *vice* Shri V. S. Despande and makes the following amendment in the notification of the Government of India in the Ministry of Transport and Aviation (Department of Transport, Shipping and Tourism—Transport Wing) No. 25-T(32)/63, dated the 20th July, 1966, namely:—

In the said notification, for item 3, the following item shall be substituted, namely:—

"3. Shri S. Balakrishnan, Joint Secretary and Legal Adviser, Department of Legal Affairs, Ministry of Law."—Member.

[No. 25-T(32)/63.]

B. M. MAZUMDAR, Under Secy.

DEPARTMENT OF COMMUNICATIONS

New Delhi, the 7th December 1967

S.O. 4518.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules to amend the Overseas Communications Service Employees' Contributory Provident Fund Rules, 1964, namely:—

1. These rules may be called the Overseas Communications Service Employees' Contributory Provident Fund (Amendment) Rules, 1967.

2. In the Overseas Communications Service Employees' Contributory Provident Fund Rules, 1964, in sub-rule (3) of rule 16, the following Notes shall be inserted, namely:—

"NOTE 1.—A subscriber shall be permitted to make a withdrawal once in every six months under clause (a) of sub-rule (1) of rule 16. Every such withdrawal

shall be treated as withdrawal for a separate purpose for the purpose of sub-rule (3) of rule 16.

NOTE 2.—In cases where a subscriber has to pay in instalments for a site or a house purchased, or a house constructed through a House Building Co-operative Society or similar agency, he shall be permitted to make a withdrawal as and when he is called upon to make a payment in any instalment. Every such payment shall be treated as a payment for a separate purpose for the purposes of sub-rule (3) of rule 16.

[No. 3-OC(28)/67.]

S. S. PRUTHI, Under Secy

CENTRAL ELECTRICITY AUTHORITY

New Delhi, the 16th December 1967

S.O. 4519.—In exercise of the powers conferred by Sub-Section 6 of Section 3 of the Electricity (Supply) Act 1948, the Central Electricity Authority hereby appoints Shri M. Kothandaraman, Extra Assistant Director, Central Water & Power Commission (Power Wing) as Assistant Director in the Southern Regional Electricity Board, with effect from the forenoon of the 1st December, 1967, until further orders.

[No. 21/9/66-Adm-I.]

M. M. DHAWAN, Under Secy.

for Chairman, C.E.A.

MINISTRY OF PETROLEUM AND CHEMICALS

New Delhi, the 13th December 1967

S.O. 4520.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 3238, dated the 4th September, 1967 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipelines;

And whereas, the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And, whereas, the Central Government, has, after considering the said report, decided to acquire the right of user in the lands specified in the Schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (i) of section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the Schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands, shall instead of vesting in the Central Government, vest on the date of the publication of this declaration in the Oil and Natural Gas Commission free from all encumbrances.

SCHEDULE

State : Gujarat District : Broach Taluka : Ankleshwar

| Village | Survey No. | Hector | Acre | P. Acre. |
|----------------------|------------|--------|------|----------|
| Ankleshwar | 233/2 | 0 | 11 | 32 |

(Sd.) K. M. Vyas,
Asst. Liaison Officer,
Gujarat Pipeline Project,
Baroda.

[No. 31/41/64-Vol II/Prod/I.O.C.]

P. P. GUPTA, Under Secy.

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 15th December 1967

S.O. 4521.—In exercise of the powers conferred by Section 5(1) of the Cinematograph Act, 1952 and sub-rule (3) of rule 8 read with sub-rule 2 of rule 9 of the Cinematograph (Censorship) Rules, 1958, the Central Government hereby appoints Smt. Snehalata Reddy after consultation with Central Board of Film Censors as a member of the Advisory Panel of the said Board at Madras with immediate effect.

[No. 11/3/65-FC.]

H. C. KHANNA, Dy. Secy.

CORRIGENDUM

New Delhi, the 15th December 1967

S.O. 4522.—In the Schedule to this Ministry's S.O. No. 3991 dated 23rd October, 1967 appearing in the Gazette of India, Part II, Section 3, Sub-Section (ii) dated the 11th November, 1967, under Col. 2 against S. No. 2 for the existing entries "Dhyān Se Sochiye" please read "Dhyān Se Sochiye-7". Also under Col. 3 against S. No. 2 for the existing entry "717 M" please read "17 M".

[No. F. 24/1/67-FP App. 1222.]

BANU RAM AGGARWAL, Under Secy.

MINISTRY OF LABOUR, EMPLOYMENT & REHABILITATION

(Department of Labour & Employment)

New Delhi, the 2nd December 1967

S.O. 4523.—In exercise of the powers conferred by section 8 of the Minimum Wages Act, 1948 (11 of 1948) read with section 9 of the said Act and Rule 3 of the Minimum Wages (Central Advisory Board) Rules 1949 and in supersession of the notification of the Government of India in the late Ministry of Labour and Employment S.O. No. 2590 LWI (I) 6(15)/58 dated the 17th November, 1959, the Central Government hereby appoints a Central Advisory Board consisting of the following members, namely:—

INDEPENDENT PERSONS

Chairman

1. Dr. S. T. Merani, Joint Secretary, Ministry of Labour, Employment and Rehabilitation, (Department of Labour and Employment) New Delhi

Members

2. Shri S. J. Das, Secretary, Government of Assam, Shillong.
3. Shri S. B. Lal, Labour Commissioner Government of Madhya Pradesh Indore.
4. Shri R. B. Shukla, Labour Commissioner Government of Gujarat, Ahmedabad.
5. Shri S. Nagarajan, Deputy Secretary, Government of Kerala, Trivandrum.
6. Shri S. K. Misra, Labour Commissioner, Government of Haryana, Chandigarh.
7. Dr. T. V. S. Chalapathi Rao, M.L.A., Vijavada (Andhra Pradesh);
8. Shri S. K. Sen, Presiding Officer, Central Government Industrial Tribunal-Cum-Labour Court, 20, British Indian Street, 3rd Floor, Calcutta.
9. Shri Vishwa Nath Pandey, M.P. 189 North Avenue, New Delhi.
10. Shri C. N. Vakil, 14 Kalpana, 96, Marine Drive, Bombay.
11. Shri Ram Chandra Sinha, Secretary to the Government of Bihar, and ex-officio Chairman, Minimum Wages State Advisory Board, Patna.

Representatives of Employees

12. Shri N. M. Barot C/o Textile Labour Association, Gandhi Majoor Sevalaya, Bhadra, Ahmedabad.
13. Shri Durgeshwar Saikia, C/o Assam Chah Mazdoor Sangh, Dibrugarh.
14. Shri Vigendra Kabra, General Secretary (INTUC) Maharashtra Branch, 27, Military Square Lane, Fort, Bombay.
15. Shri Prabhakar Tripathi, Secretary (INTUC) U.P. Branch, 11/365, Souter-ganj, Kanpur.
16. Shri Satpal Bhushan, President (INTUC) Punjab Branch, S.C.F. 4, Sector 20-D, Chandigarh.
17. Shri N. Keshava, Ag. President (INTUC) Mysore, T.B. Raju Building, 5th Main Road, Gandhinagar, Bangalore.
18. Shri N. N. Manna, CPWD Workers Union, 6 Tooti, Paharganj, New Delhi.
19. Shri R. Umanath, M.P., 4 Ashoka Road, New Delhi.
20. Shri Vilas Gandhi, Metal and Engineering Mazdoor Sabha, 491 Rawliwar Peth, Moti Chauk, Poona-2.
21. Shri S. R. Kulkarni, President All India Port and Dock Workers Federation, D Mello Bhavan, Carnac Bunder, 167, P.D. Mello Road, Bombay.
22. Shri Jatin Chakravarty, 249, Bepin Behari Ganguly Street, Calcutta.
23. Shri Lahtan Chowdhury, Convener of the Bihar Agricultural Labour Committee, Supul, District Saharsa (Bihar).

Representatives of the Employers

24. Shri H. C. Kothari, Oriental Building, Armenian Street, Madras.
25. Shri K. N. Sahaya 'Sahaya Sadan', Bailey Road, Patna.
26. Shri M. K. Mohta, B-26, Greater Kallash, 1, New Delhi.
27. Shri Deekisan B. Sarda, C/o M/s Bastiram Naridas Maheshri Sinnar (Nasik) (Maharashtra).
28. Shri J. G. Gill, General Manager in India, The Commonwealth Trust, Post Box No. 5, Calicut.
29. Shri P. J. Parr, Senior Adviser, Indian Tea Association, Royal Exchange, Netaji Subhash Road, Calcutta-1.
30. Shri P. K. Sahgal, General Manager, The British India Corporation Ltd., Cooper Allen Branch, Civil Lines, Kanpur.
31. Shri D. P. R. Cassad, Managing Director, C.P. Syndicate Private Ltd., Byramji Town, Nagpur.
32. Shri Guru Pershad, Vice President and Managing Director of M/s Hyderabad Allwyn Metal Works C/o All India Manufacturers Organisation, Sir Phroze Shah Mehta Road, Bombay-1.
33. Shri G. S. Gupta, Lakshmi Engineering Works, Hauz Quazi, Delhi-6.
34. Shri Tirth Prakash, Deputy Director, Civil Engineering, Railway Board, New Delhi.
35. A representative of Ministry of Defence.

[No. LWI(I)6(3)/67.]

O. P. TALWAR, Under Secy.

(Department of Labour & Employment)

New Delhi, the 5th December 1967

S.O. 4521.- In exercise of the powers conferred by sub-section (1) of section 27 of the Payment of Bonus Act, 1965 (21 of 1965) the Central Government hereby makes the following amendments in the notification of the Government of India

in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 1491 dated the 15th April, 1967; namely:—

In the table to the said notification—

- (i) in the entries against item II, in column (2) after the words "The State of Maharashtra" the words "and the Union Territories of Goa, Daman and Diu" shall be inserted;
- (ii) after item X and the entries relating thereto, the following item and entries shall be inserted, namely:—

| (1) | (2) |
|--|--|
| "XI Deputy Chief Labour Commissioner (Central), Dhanbad. | The States of Bihar, West Bengal, Orissa, Assam, Nagaland and the Union Territories of Manipur and Tripura". |

[No. WB-20(8)/67.]

HANS RAJ CHHABRA, Under Secy.

(Department of Labour and Employment)

New Delhi, the 5th December 1967

S.O. 4525.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Additional Industrial Tribunal, Dhanbad, in the matter of dispute between the employers in relation to the Pootkee Colliery of Messrs Bhowra Kankanee Collieries Limited, Post Office Kusunda, District Dhanbad and their Managing Agents Messrs K. C. Thaper and Brothers, Thapar House, 25, Brabourne Road, Calcutta-1 of the one part, and their workmen of the other part, which was received by the Central Government on the 1st December, 1967.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2)
AT DHANBAD**

In the matter of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947.

REFERENCE No. 39 OF 1967

PARTIES:

Employers in relation to the Pootkee Colliery of Messrs. Bhowra Kankanee Collieries Ltd., P.O. Kusunda, District Dhanbad.

AND

Their Workmen

PRESENT:

Sri Nandagiri Venkata Rao, Presiding Officer.

APPEARANCES:

For the employers: Sri K. C. Nandkeolyar, Deputy Chief Personnel Officer.

For the workmen: Sri Gopal Chandra Munshi, General Secretary, Khan Mazdoor Congress.

STATE: Bihar.

INDUSTRY: Coal.

the 25th November, 1967
Dhanbad, dated *4th Agrahayana, 1889*

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Pootkee Colliery of Messrs Bhowra Kankanee Collieries Limited, Post Office Kusunda, District Dhanbad and their

Managing Agents, M/s. K. C. Thaper and Brothers, Thaper House, 25, Brabourne Road, Calcutta-1 on the one part and their workmen on the other part, by its order No. 2/18/65-LR.II dated the 14th May, 1965 referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

"SCHEDULE

Whether the action of the management of Pootkee Colliery of Messrs Bhowra Kankanee Collieries Limited and their Managing Agents, Messrs. K. C. Thaper and Brothers, in dismissing Sri Abdul Gani, Shale Picker from service with effect from the 18th November, 1964 was justified? If not, to what relief, is the workman entitled?"

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as No. 78 of 1965 on its file. The workmen filed their statement of demands. While it was pending before the Central Government Industrial Tribunal, Dhanbad the proceeding was transferred to this Tribunal, by the Central Government by its order No. 8/25/67-LR.II dated 8th May, 1967 under Section 33(B) of the Industrial Disputes Act, 1947. Consequently, the reference is renumbered on the file of this Tribunal as reference No. 39 of 1967. The employers also filed their statement of demands.

3. The case of the workmen is that Abdul Gani, a shale picker in the employ of the Pootkee Colliery of the employers was an office bearer and an active worker of the Khan Mazdoor Congress Branch, that on 23rd August 1964 there was a big meeting of the workers held at the colliery ground under the banner of the Khan Mazdoor Congress, that the management did not like that there should be a branch of the Khan Mazdoor Congress at the colliery, that in pursuance of their policy of harassing and victimising the ring leaders of the Khan Mazdoor Congress Branch the management chargesheeted Abdul Gani (hereinafter referred to as the affected workman) on the next morning with false allegations and that after conducting a perfunctory enquiry dismissed him from service with effect from 18th November 1964, wrongfully and illegally. The stand of the employers is that the affected workman was chargesheeted for misconduct as defined in the Certified Standing Orders, that on his denial he was given notice of the enquiry, that the enquiry was conducted in his presence giving him full opportunity to cross examine the prosecution witnesses and to adduce his defence evidence, that on the material before him, the enquiry officer found the affected workman guilty of the charges brought against him, that the management accepted the findings of the enquiry officer and ordered dismissal of the affected workman and that the enquiry was fair and in accordance with the principles of natural justice. The employers denied that the action taken by them against the affected workman was motivated with victimisation.

4. The workmen were represented by Sri Gopal Chandra Munshi, General Secretary, Khan Mazdoor Congress, and the employers by Sri K. C. Nandkeolyar, Deputy Chief Personnel Officer. On behalf of the workmen the affected workman is examined as WW1 and Exts. M1 to M6 are marked. On behalf of the employers also a witness, MW1 is examined and Exts. M7 to M19 are marked. By consent of the employers Ext. W1 is marked for the workmen. It is alleged on behalf of the workmen and deposed to by WW1 that the dismissal of the affected workman was a result of the victimising policy of the employers, in as much as the affected workman was an office bearer and an active worker of the Khan Mazdoor Congress Branch of the Colliery. This allegation is flatly denied by the employers and they pleaded that the dismissal was the result of a proper domestic enquiry. I have to consider the alleged victimisation and the domestic enquiry independently. In respect of the alleged victimisation the case of the workmen hinges solely on the oral testimony of the affected workman, WW1 and repetition of the allegation in their letters addressed to the management and the Conciliation Officer. Regarding the domestic enquiry there is considerable documentary evidence in addition to the oral testimony of the enquiry officer, MW1 and omissions on the part of the affected workman, WW1. It is an admitted fact that on 23rd August 1964 there was a meeting of the workmen at the colliery. Ext. M7 is the chargesheet served on the affected workman. The allegations contained in it were that on Sunday the 23rd August, 1964 at 10-30 A.M. when the work of loading of wagons was in progress the affected workman created a disturbance, threatened the loading labourers to stop work illegally, the loading clerk Sri A. K. Raha asked the affected workman to forebear from such illegal activity but the affected workman disobeyed him, threatened him and refused to leave the pit as asked by him. The charges brought against him were wilful insubordination and disobedience of lawful and reasonable orders of the superior, riotous and disorderly behaviour, causing damage to the work in progress and abetment of the above misconducts. Admittedly, the affected

workman submitted his reply to the chargesheet of 26th August, 1964 and it is Ext. M1. He denied the charges and pleaded victimisation. Sri H. R. S. Sodhi, the Administrative Officer of Pootkee Colliery, MW1 made the enquiry. Five witnesses were examined for prosecution and their statements are Exts. M9, M10, M11, M12 & M13. Each of the witnesses is cross examined by the affected workman. The affected workman has admitted his signatures on the statements, Exts. M9, M10, M11 & M12, but denied his signatures on other statements and on his own statement, Ext. M14. While admitting his signature on the statement of one of his defence witnesses, Ext. M15 he has denied his signature on the statement of other defence witness, Ext. M16. But MW1 has proved all the statements, Exts. M9 to M13, the statement of the affected workman, Ext. M14 and the two statements of the defence witnesses, Exts. M15 and M16 as recorded by him in presence of the affected workman. He has also proved that the affected workman cross examined all the prosecution witnesses, that he gave his own statement, Ext. M14 and that he got the statements Exts. M15 and M16 of his defence witnesses recorded. The report of the enquiry officer is Ext. M17 and it is also proved by MW1. The report states that all the charges brought against the affected workman were proved. On the chargesheet, Ext. M7 I find the approval of the agent in dismissing the affected workman as recommended. The Certified Standing Orders of the opposite party are Ext. M19. Wilful insubordination or disobedience, whether alone or in combination with another or others, of any lawful or reasonable order of his superior constitutes misconduct under S.O. 27 of the Certified Standing Orders. Neither it is alleged nor did I find any violation of any principle of natural justice in the domestic enquiry conducted against the affected workman. I could not enter into appreciation of evidence recorded in the enquiry as an appellate authority. I do not find anything wrong or illegal in the domestic enquiry held against the affected workman. Under these circumstances I cannot agree that the dismissal of the affected workman was a result of the gross victimisation policy of the employers or that it was unjust.

5. I, therefore, hold that the action of the management of Pootkee Colliery of Messrs Bhowra Kankanee Collieries Co. Ltd., and their Managing Agents, Messers K. C. Thaper and Brothers, in dismissing the affected workman, Abdul Gani, Shale Picker from service with effect from 18th November 1964 was justified and, consequently, he is not entitled to any relief. The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947.

Sd/- N. VENKATA RAO,

Presiding Officer,
Central Government Additional
Industrial Tribunal, Dhanbad.

APPENDIX I

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

REFERENCE No. 39 OF 1967

Employers in relation to Pootkee Colliery of Messrs. Bhowra Kankanee Collieries Ltd.
P.O. Kusunda, District Dhanbad

Vs.

Their Workmen

List of Documents admitted in evidence for the Employers

| Distinguishing mark or number | Description of document and date | Date of admission | Whether admitted after or without objection | Page Number |
|-------------------------------|--|-------------------|---|-------------|
| 1 | 2 | 3 | 4 | 5 |
| Ex. M1 | Reply of the chargesheet dated 26-8-64 of Sri Abdul Ghani. | 5-9-67 | On proved. WW1 | 22 |
| Ex. M2 | Signature of Sri Ghani on the statement of Sri A. K. Raha dated 31-8-64. | Do. | Do. | 2 |
| Ex. M3 | Statement of Sri N. N. Ojha | Do. | Do. | 4 |
| Ex. M4 | Statement of Sri Khirao | Do. | Do. | 7 |
| Ex. M5 | Statement of Sri Kisoon | Do. | Do. | 10 |

| 1 | 2 | 3 | 4 | 5 |
|----------|--|--------|---------------|----|
| Ex. M6 | Signature of Sri Gani on the statement of Sri Dwaraka Prasad on page 2. | 5-9-67 | On Proved WWI | 18 |
| Ex. M7 | Chargesheet No. 170/64 dt. 24-8-64. | Do. | On Proved MWI | 23 |
| Ex. M8 | Office copy of the notice of enquiry dated 28-8-64. | Do. | Do. | 21 |
| Ex. M9 | Identify the signature of Sri Abdul Gani on the statement of Sri A.K. Raha. | Do. | Do. | 1 |
| Ex. M10 | Do. N. N. Ojha | Do. | Do. | 4 |
| Ex. M11 | Do. Khirao | Do. | Do. | 7 |
| Ex. M12 | Do. Kisoan | Do. | Do. | 9 |
| Ex. M13 | Do. Kalicharan | Do. | Do. | 11 |
| Ex. M14 | Do. Dwarka Prasad | Do. | Do. | 13 |
| Ex. M15 | Do. Abdul Gani | Do. | Do. | 17 |
| Ex. M16 | Do. Hari Saha | Do. | Do. | 19 |
| Ex. M17 | Letter dated 7-9-64 from H. R. S. Sodhi to manager regarding enquiry report. | Do. | Do. | 25 |
| Ex. M18 | Letter dated 7-1-65 from Sri G. Munshi to Conciliation Officer, Dhanbad. | Do. | Do. | 27 |
| Ex. M19. | Copy of the standing orders. | Do. | Do. | 28 |

List of Documents Admitted in Evidence for the Workmen

| Distinguishing mark or number | Description of document and date | Date of admission | Whether admitted after or without objection |
|-------------------------------|--|-------------------|---|
| Ex. W1 | Dismissal letter No. L.W.O. Ref./4320/LWO/23/B dt. 18-11-1964. | 5-9-67 | Admitted. |

Sd/-N. VENKATA RAO,
Presiding Officer,
Central Government,
Additional Industrial Tribunal,
Dhanbad.

APPENDIX II

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2)
AT DHANBAD.

REFERENCE NO. 39 OF 1967.

Employers in relation to Pootkee Colliery of Messrs Bhowra Kankanee Collieries Ltd., P.O Kusunda, District Dhanbad.

Vs.
Their workmen,

List of Witness examined for the Employer

| No. of | Name of witness | Date of examination |
|--------|--------------------|---------------------|
| MW1 | Sri H. R. S. Sodhi | 5-9-1967. |

List of Witness examined for the Workmen

| No. of witness | Name of witness | Date of examination |
|----------------|-----------------|---------------------|
| V. WI | Sri Abdul Gani | 5-9-1967. |

Sd/-N. VENKATA RAO,
Presiding Officer,
Central Government
Additional Industrial Tribunal,
Dhanbad.

[No. 2/18/65-LRII.]

New Delhi, the 6th December 1967

S.O. 4526.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the Sarpi Kajora Colliery, Post Office Ukhra, District Burdwan, and their workmen, which was received by the Central Government on the 2nd December, 1967.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA.

REFERENCE No. 45 of 1967

PARTIES:

Employers in relation to the Sarpi Kajora Colliery,

AND

Their workmen.

PRESENT:

Shri S. K. Sen—*Presiding Officer*

APPEARANCES:

On behalf of Employers—Shri K. P. Mukherjee, Bar-at-Law.

On behalf of Workmen—Shri Kishore Chatterjee.

STATE: West Bengal.

INDUSTRY: Coal Mines.

AWARD

By Order No. 6/91/66-LRII dated 24th May, 1967, the Central Government referred for adjudication an industrial dispute between the employers in relation to the Sarpi Kajora Colliery, Post Office, Ukhra, District Burdwan and their workmen in respect of the matters specified in the following schedule:

“Whether the dismissal of Sarvashri Neam Harijan and Ram Padarak Ram, M. C. Loaders by the management of Sarpi Kajora Colliery, Post Office, Ukhra with effect from the 23rd June, 1966 was justified? If not, to what relief are the workmen entitled?”

2. According to the written statement of the union, the Colliery Mazdoor Union, Neam Harijan and Ram Padarak Ram, Loaders became members of the branch of the Colliery Mazdoor Union which was started by Keshab Banerjee at Sarpi Kajora Colliery in the beginning of 1966; and they did some work for the union e.g. by collecting subscriptions. The management did not recognise the Colliery Mazdoor Union and wanted to crush the new union. The two workmen, Neam Harijan and Ram Padarak Ram, were falsely charge-sheeted on 29th May, 1966 on the allegation that they had dissuaded workmen from going down the mine at the commencement of the third shift on 28th May, 1966 beginning at 12 midnight and had thus affected the work and output in the mine. The two workmen submitted replies on 4th June, 1966 denying the allegations; they were notified that the enquiry would take place on 17th June,

1966. Both the workmen started together for the office where the enquiry was to be held, but they noticed a number of men armed with lathis near the office and out of fear they ran away and did not report at the office where the enquiry was to be held. They, however, informed the Labour Enforcement Officer at Ukhra and sent a letter by registered post to the Manager, Sarpi Kajora Colliery requesting him to fix another date for enquiry, but instead they received the letters of dismissal dated 23rd June 1966. According to the union, the dismissal was unfair and amounted to victimisation. The union claimed reinstatement of the two workmen together with back wages.

3. According to the management, the two workmen dissuaded loaders from going down the mine at the commencement of the third shift on 28th May, 1966 with the result that the in-charge, Kanti Lal Mehta had to contact the Faridpur Police Station, and at the intervention of the officer-in-charge of the Police Station who came within a short time, the workmen were allowed to go down the mine and Neam Harijan and Ram Padarak Ram also went down the mine and joined their shift. For their misconduct they were chargesheeted on 28th May, 1966, they submitted replies and were duly served with notices of enquiry, but they failed to attend the enquiry. The management denied that there was any collection of armed men at the office in the afternoon of 17th June, 1966 to scare away the two workmen from attending the enquiry. The management further denied having received any letter by registered post asking for a fresh date of enquiry. As the two workmen did not attend the enquiry, the enquiry was held *ex-parte*; the charges were found proved by the enquiring officer; and on the basis of the report of the enquiring officer, the manager with the approval of the Agent passed the dismissal orders. The management therefore contend that the workmen are not entitled to any relief.

4. It appears from the evidence of Shri R. C. Thacker, the Agent of the Colliery that Khan Shramik Congress is the recognised union at Sarpi Kajora Colliery. The Agent stated that he was not aware that any workmen at Sarpi Kajora Colliery had become a member of the Colliery Mazdoor Union. It appears however, from the cross examination of MW 2, Indra Deo P. Singh, the Labour Welfare Officer, who held the enquiry, that the Colliery Mazdoor Union raised a number of disputes relating to workmen of Sarpi Kajora Colliery before the A.L.C., Central, Raniganj, and one such dispute raised by the Colliery Mazdoor Union was referred to arbitration of Shri Chaddha on the basis of a memorandum of agreement between the management and the Colliery Mazdoor Union, and as the result of the award of the arbitrator 32 workmen who had been stopped from work by the management were reinstated with full back wages. Accordingly, the denial by the Agent about the existence of the Colliery Mazdoor Union at the Colliery must be considered unacceptable. It is possible that because the Colliery Mazdoor Union raised a number of disputes and at least in one of them the Colliery Mazdoor Union obtained a favourable award from the arbitrator, the management was not pleased with the Colliery Mazdoor Union and such workmen of the Colliery who had become members of that union.

5. At the same time there is no evidence to indicate that the proceedings against the two workmen, Neam Harijan and Ram Padarak Ram were started because they had become members of the Colliery Mazdoor Union. Neam Harijan deposed on behalf of the union and he admitted that some trouble had taken place at the commencement of the third shift on 28th May, 1966. He said that on that day the management had stopped 4 loaders and 2 trammers from work, and when workmen collected at the pit head of Pit No. 3 at 12 midnight for the third shift of 28th May, 1966, Neam Harijan said to the in-charge, Kanti Lal Mehta, that the old workers i.e. 4 loaders who had been stopped from work, should be allowed to go down and work and that the new hands should not be allowed to work in their place, and that thereupon the in-charge telephoned to the Police Station and called the police officer; the officer in-charge of the Police Station did not arrest Neam Harijan but took him from the pit head of Pit No. 3 to pit head of Pit No. 2 and asked him to wait there, and after sometime he was also allowed to go down Pit No. 3 in order to join the shift. From the fact that the police officer did not arrest the two workmen, it would appear that the workmen had not taken recourse to physical violence in stopping any workman, but they raised the dispute relating to the old workers being allowed to work and so held up the progress of the work. Admittedly the chargesheets were received by the two workmen and replies were submitted and notices of enquiry were also received by the two workmen and they knew that the enquiry was to be held in the afternoon of 17th June, 1966. According to Neam Harijan he actually was going along with Ram Padarak Ram to attend the enquiry when he saw a

number of men armed with lathis, etc. outside the colliery office and they abused him and Ram Padarak Ram, and so out of fear he and Ram Padarak Ram ran away. If this part of the case of the workmen could be accepted, it would follow that the enquiry was not a proper one as the workmen had been deliberately stopped from attending the enquiry. But it appears that this allegation was made for the first time in the letter which Keshab Banerjee addressed to the A.L.C., Central, Raniganj on 18th July, 1966 i.e. a month after the date of the enquiry. The union's case is that after the workmen had run away for fear of the armed men on 17th June, 1966 they went to the office of the Labour Enforcement Officer, Ukhra and reported to him, and that then they went to their union office at Ukhra and sent a letter by registered post stating the circumstances which had prevented them from attending the enquiry and requesting that another date might be fixed. But the Labour Enforcement Officer of Ukhra has not been called as a witness to prove this and there is nothing to show that a registered letter was sent on 17th June, 1966 describing the circumstances in which the workmen could not attend the enquiry and asking for another date. Neam Harijan produced a postal receipt dated 22nd June, 1966 Ext. 1, stating that this related to the registered letter which they had sent. But the copy of the Hindi letter which they sent has been marked 2 for identification and it does not relate to the circumstances in which the workmen could not attend the enquiry on 17th June, 1966 and does not contain any prayer for fixing another date for the enquiry. It relates to Neam Harijan and some other mazdoors having been forcibly driven away from the dhowra on 21st June, 1966. Neam Harijan stated in the letter that on that account he was not attending his shift on 22nd June, 1966. Therefore Neam Harijan's statement before the tribunal that he went to join his shift on 22nd June, 1966, but was prevented by the Agent and the Labour Welfare Officer, cannot be accepted as true. The letter marked 2 together with the postal receipt, Ext. 1, relates to another incident which was also described by Neam Harijan in his evidence, namely that one Mukhdeo Harijan of Seetalpur Colliery came to see him at his dhowrah at Sarpi Kajora Colliery on 21st June, 1966, and that seeing him, Kanti Lal Babu, Deonandan Singh, Chulhan and others said that a man from another colliery and another union had come to make trouble and so they assaulted him and thereupon Neam Harijan also ran away out of fear. Neam Harijan admitted that on 17th, 18th, 19th and 20th June he and Ram Padarak Ram regularly joined their shift at the colliery. 21st June, 1966 was a rest day at the colliery and Ram Padarak Ram worked on 22nd June also. If the two workmen were thus allowed to attend their shift both before and after the scheduled time of the enquiry it is difficult to believe that they were forcibly prevented from attending the enquiry. If they had been thus prevented, it would be natural for them to complain verbally to the Manager or the Welfare Officer, but there is no evidence that they did so. On the other hand, the Labour Welfare Officer said that he met Neam Harijan on 18th June, 1966 and asked him why he had not attended the inquiry; and Neam made no complaint of having been prevented. I cannot therefore accept Neam's evidence that a letter explaining the circumstances in which the workmen did not attend the inquiry was sent from Ukhra. Thus, I must find that the two workmen were not prevented from attending the enquiry but that they voluntarily kept away.

6. Accordingly, the enquiry must be held to be in order. The Welfare Officer has proved the proceedings of the *ex-parte* inquiry, and the report which he submitted. The evidence recorded at the enquiry is sufficient for the finding made by the enquiring officer namely that the two workmen dissuaded other workmen for some time from going down the mine and so interfered with the regular working of the mine and affected the output. That being so, the order of dismissal cannot be interfered with.

7. My award therefore is that the dismissal of Shri Neam Harijan and Shri Ram Padarak Ram, M.C. loaders by the management of Sarpi Kajora Colliery with effect from 23rd June, 1966 was justified and the workmen are not entitled to any relief.

(Sd.) S. K. Sen,
Presiding Officer.

[No. 6/91/66-LRII.]

New Delhi, the 8th December 1967

S.O. 4527.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal (No. 2), Dhanbad, in the industrial dispute between the employers in relation to the Balihari Colliery of Messrs. Balihari Colliery Company (Private) Limited, Post Office, Kusunda, District Dhanbad and their Managing

Agents, Khatau & Company (Private) Limited, Post Office Dhansar, District Dhanbad of the one part and their workmen, which was received by the Central Government on the 5th December, 1967.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL

(No. 2) AT DHANBAD.

In the matter of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947.

REFERENCE NO. 49 OF 1967

PARTIES:

Employers in relation to the Balihari Colliery of Messrs. Balihari Colliery Company (P) Limited, Post Office Kusunda, District Dhanbad and their Managing Agents, Khatau and Company (P) Limited, Post Office Dhansar, District Dhanbad.

AND

Their workmen.

PRESENT:

Sri Nandagiri Venkata Rao—*Presiding Officer.*

APPEARANCES:

For the Employers—Sri S. R. P. Singh, Labour Officer.

For the Workmen—Sri Gurbachan Singh, Vice-President and Sri S. V. Acharior, General Secretary of Hindusthan Khan Mazdoor Sangh.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, dated the 29th November, 1967.

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Balihari Colliery of Messrs Balihari Colliery Company (P) Limited, Post Office Kusunda, District Dhanbad and their Managing Agents, Khatau & Company (P) Limited, Post Office Dhansar, District Dhanbad of the one part and their workmen of the other part by its order No. 2/99/64-LRII dated the 31st May, 1965 referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

SCHEDULE

“Whether the management of the Balihari Colliery of Messrs Balihari Colliery Company (P) Limited and their Managing Agents, Khatau & Company (P) Limited were justified in dismissing, with effect from the 15th July, 1964, Sarvashri Bandhu Lohar, Blacksmith, Govind Lohar, Blacksmith, Dukhi Shao, Hammerman, and Govind Lohar, Hammerman? If not, to what relief are the workmen entitled?”

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 95 of 1965 on its file. The employers as well as the workmen filed their statement of demands. While it was pending before the Central Government Industrial Tribunal, Dhanbad the proceedings was transferred to this Tribunal, by the Central Government by its order No. 8/25/1967-LRII dated 8th May, 1967 under section 33(B)(1) of the Industrial Disputes Act, 1947. Consequently, the reference is renumbered on the file of this Tribunal as reference No. 49 of 1967.

3. The affected workmen, Bandhu Lohar was working as a blacksmith, Govind Lohar also as a blacksmith, Dukhi Shao as a hammerman and Govind Lohar also as a hammerman, in the Balihari Colliery of the employers and they will be hereinafter referred to as the affected workmen. On 11th June, 1964 they were served by the management of the employers with charge-sheets for assaulting the Agent Sri D. G. Gupte, Manager Sri C. S. Sharma and Assistant Manager Sri R. G. Jain and using filthy language against them. Simultaneously they were also suspended pending enquiry. On 12th June, 1964 all the four affected workmen

submitted their explanations denying the charges and pleading not guilty. With notice to the affected workmen Sri O. P. Verma, C.P.O. conducted the enquiry on 16th June, 1964. On the same day the workmen submitted a joint representation to the manager complaining *inter alia* that they were not permitted to be represented by the Local Secretary of the Union and to examine the defence witnesses. The manager fixed 29th June, 1964 as the date for further enquiry and informed the affected workmen to produce their defence witnesses on that day and allowed them at the same time to be represented by the Local Secretary of the Union. Thereafter the affected workmen approached the Conciliation Officer on 16th July, 1964 aggrieved by the action of the employers suspending them for more than 10 days. After that date the management of the employers issued orders dismissing the affected workmen from services with effect from 15th July, 1964. These facts are not controverted.

4. The case of the workmen is that the charges brought against the affected workmen were false and baseless, that the charges were vague and did not disclose any act of misconduct, that no enquiry was held on 29th June, 1964 as directed by the manager although the affected workmen, accompanied by the Local Secretary of the Hindusthan Khan Mazdoor Sangh duly presented themselves at the place and time fixed for the enquiry, that the enquiry held on 16th June, 1964 was coloured with prejudice and bias against the affected workmen and the procedure adopted therein was arbitrary in utter disregard of natural justice, that in the enquiry on 16th June, 1964 the request of the affected workmen to allow them to be represented through their co-worker and Local Secretary of the Union and for calling the two witnesses to depose in their defence was rejected, that the enquiry was a farce, in as much as, the affected workmen were not permitted even to cross-examine the prosecution witnesses, that the order of examination of witnesses in the enquiry caused prejudice to the affected workmen, that the enquiry was never completed nor did the enquiry officer submit any report to the manager nor did he find the affected workmen guilty of the charges and that the action of the management of the employers against the affected workmen was against the Standing Orders, equity and natural justice. The employers have pleaded in their defence that the further enquiry directed to be made on 29th June, 1964 could not be held as the affected workmen and their representatives did not attend the enquiry, that in the enquiry held on 16th June, 1964 the charges of misconduct against the affected workmen were proved beyond doubt, that the enquiry held was in accordance with the Standing Orders and principles of natural justice and that it was quite justified. In view of the pleadings the short question following for determination is whether the enquiry held against the affected workmen was complete and was in accordance with the principles of natural justice.

5. The workmen were represented by Sri Gurbachan Singh and Sri S. V. Acharior, Vice President and General Secretary respectively of Hindusthan Khan Mazdoor Sangh and the employers by Sri S. R. P. Singh, Labour Officer. By consent of the employers Exts. W1(a) to (d), Exts. W2(a) to (d), Exts. W3(a) to (d), Ext. W4, Exts. W5(a) to (c), Exts. W6, W7, W8, W9, W10, W11, W12, W13(a) to (d) were marked for the workmen. By consent of the workmen Exts. M1(a) to (d), M2(a) to (d), M3 & M4(a) to (d) were marked for the employers. On behalf of the workmen the witnesses WW1 to WW5 were examined and Exts. W14 to W17 were marked. On behalf of the employers the witnesses, MW1 to MW3 were examined and Exts. M5 to M15 were marked.

6. All the four affected workmen was served with charge-sheets on 11th June, 1964 individually. The charge-sheets relating to the affected workmen, Bandhu Lohar is Ext. W1(a), Govind Lohar is Ext. W1(b), Dukhi Shao is Ext. W1(c) and Govind Lohar, hammerman is Ext. W1(d). The allegations against all the four affected workmen are that at about 1 P.M. on 6th June, 1964 when the Agent, D. G. Gupte, Manager, C. S. Sharma and the Assistant Manager, R. G. Jain, came out of the mine, the affected workmen Bandhu Lohar and the remaining four affected workmen barred their way, that the affected workman Bandhu Lohar caught hold of the arm of the Agent and assaulted him with a slap, and the three remaining affected workmen started shouting 'maro maro' and attacked him with sticks and that when the Manager and the Assistant Manager tried to save the Agent and intervene all the affected workmen manhandled them. Exts. W1(a) to W1(d) correspond to Exts. M4(a) to M4(d). Through the charge-sheets the affected workmen were advised to submit their explanations within 48 hours. Accordingly the four affected workmen submitted their explanations, Exts. W2(a) to W2(d), denying the charges and the allegations contained in them flatly and averring that the charges were brought against them with a view to conceal the assault made by the Agent, D. G. Gupte on the affected workmen Bandhu Lohar at about 11.30 A.M. The manager requisitioned the services of O. P. Verma,

the Chief Personnel Officer from the Central Group Office to conduct the enquiry and issued notices Exts. W3(a) to W3(d) to the affected workmen informing them that the enquiry into the charges against them would be conducted by O. P. Verma on 6th June, 1964 at 6-30 A.M. in the manager's office. All the four affected workmen attended the enquiry. The enquiry proceedings are Exts. M5 to M12. During the enquiry O. P. Verma got the statements recorded by A. D. Shukla, the Welfare Officer who is examined in this Tribunal as MW1. During the enquiry the statements of the Agent, D. G. Gupte, Manager, C. S. Sharma, Assistant Manager, R. G. Jain and the Peon Ram Chandra were recorded and they are respectively Exts. M9 to M12. The enquiry officer also recorded statements of the four affected workmen and the statements are Exts. M5 to M8. A. D. Shukla, MW1 also has deposed that all the four affected workmen were present in the enquiry. He further deposed that in presence of the affected workmen he recorded statements of all witnesses as directed by the Enquiry Officer, that the affected workmen and other witnesses admitted the statements to be correct when read over and explained, that the affected workmen refused to affix their thumb impressions and signatures to their statements and that J. B. Bhattacharya, a member of the executive of Hindustan Khan Mazdoor Sangh was also present at the enquiry. Out of the four affected workmen Bandhu Lohar, Dukhi Shao and Govind Mistry are examined before this Tribunal as WW2 to WW4. All of them have also admitted that they attended the enquiry held against them on 16th June, 1964. To this extent there is no dispute. It also appears that soon after the enquiry the affected workmen represented to the manager that during the enquiry they were not allowed to be represented by their co-worker and Local Secretary of the Union, A. K. Das and to produce their defence witnesses. However, it is not denied by the affected workmen that through letters Exts. M1(a) to M1(d) dated 20th June, 1964 the manager gave them an opportunity to produce their witnesses and also to be represented by A. K. Das on 23rd June, 1964 at 3.30 P.M. at the manager's office. But they did not attend the enquiry, although Ram Chandra, Office Peon went to them to take them to the enquiry. It is not correct to say that there was no enquiry at all on 23rd June, 1964. The affected workmen Dukhi Shao, WW3 himself says that the enquiry was again held on 23rd June, 1964 and that they knew that the enquiry was to be held on that day. The Office Peon, WW2 also has in his evidence that he went twice to the affected workmen inviting them to the enquiry on 23rd June, 1964, but the affected workmen did not attend the enquiry. Again admittedly, the manager sent communications, Exts. M2(a) to M2(d) on 26th June, 1964 fixing the further date for continuance of the enquiry on 29th June, 1964 to produce their witnesses and also to be represented by A. K. Das. But the affected workmen did not attend the enquiry. Again, they cannot be believed that no enquiry was held on 29th June, 1964. In their subsequent correspondence with the manager or representation to the Conciliation Officer I find no reference that they were willing to attend the enquiry on 23rd June, 1964 or 29th June, 1964 or they made any attempt to attend it. In spite of giving opportunity the affected workmen did not take advantage and refused to participate in the further enquiry. They themselves are to be blamed and not the employers.

7. Now it is to be seen if the enquiry held on 16th June, 1964 was complete and in accordance with the principles of natural justice. The contention of the workmen is that the enquiry was never completed and the enquiry officer did not submit his report to the manager. But this contention is against the record. The enquiry report is Ext. M13. It is true that the enquiry officer is not examined, but A. D. Shukla, MW1 has identified the signature of the enquiry officer on the report Ext. M13. It is to be remembered that non-examination of the enquiry officer cannot be fatal. The report is concluded with the statement that the high-handed attitude of the affected workmen could not be justified under any circumstance and, therefore, the enquiry officer suggested, that they should be dismissed from service. Thus, there is no substance in the contention that there was no report of the enquiry officer or that the enquiry officer did not find the affected workmen guilty of the charges. During the enquiry, the Agent, Manager, Assistant Manager and Office Peon were examined to substantiate the charges brought against the affected workmen. Their statements Exts. M9 to M12 are proved by MW1, who had recorded them under the direction and supervision of the enquiry officer. The statements Exts. M9 to M11 support the charge allegations. It is true that all the three witnesses are the injured persons. But that is no reason why their sworn testimony should not be believed. The affected workmen have simply denied the charge brought against them and deposed that at the material time they were engaged elsewhere. But they did not lead any evidence in support of their version of the case. It is true that the affected workmen were examined before the examination of the prosecution

witnesses and the procedure adopted is not commendable. But merely on that ground I cannot conclude that any prejudice was caused to the affected workmen. They were given ample opportunity to cross-examine the prosecution witnesses and lead their defence. As a matter of fact also the prosecution witness, D. G. Gupte has been cross-examined by the affected workman, Govind Mistry. When the affected workmen deliberately declined to cross-examine the prosecution witnesses and lead their defence and on the material before him the enquiry officer found the charges as established, I do not find any reason to interfere with the findings or the subsequent action taken by the employers based on the findings. I am not to sit over the enquiry as an appellate authority and enter into minute appreciation of evidence.

8. An objection also is taken that the order of dismissal was not correct. In the charge-sheets para 27(5) of the Certified Standing Orders is referred to. But it is a mistake for the para 29(5) of the Certified Standing Orders, which deals with the misconduct, including in it drunkenness, fighting, riotous or disorderly and indecent behaviour. When the facts mentioned in the charge-sheet are clear and unambiguous mere wrong mention of the provision of the Certified Standing Orders does not vitiate the charges. Ext. M14 is the letter through which the manager sought permission from the Director, Central Administrative Office for dismissal of the affected workmen on the enquiry report, Ext. M13 and the permission accorded by the Director is Ext. M15. It is argued that a Director is not an owner competent to accord the approval in terms of Para 30 of the Certified Standing Orders. I cannot agree that a Director cannot be the owner. It is also contended that the order of dismissal and contravened Section 33 of the Industrial Disputes Act, 1947, inasmuch as it was passed during the pendency of the Conciliation Proceedings before the Conciliation Officer. Against their suspension, the affected workmen, through their representative approached the Conciliation Officer by means of the application, Ext. W9 dated 16th July 1964 and the orders of dismissal of the affected workmen are said to have been received by them on 18th July 1964 and, thus, it is urged that the orders of dismissal should be deemed to have been passed during pendency of the conciliation proceedings and hit by Section 33 of the Industrial Disputes Act, 1947. But the orders of dismissal, Exts. W3(a) to W3(d) are dated 15th July 1964 and there is absolutely no material to suggest that they were not passed on 15th July 1964, before the Conciliation Officer received the letter, Ext. W9 on 16th July 1964. For all the above reasons I find no substance in the objections raised on behalf of the workmen.

9. I, therefore, hold that the management of the Balihari Colliery of Messrs Balihari Coal Co. (P) Ltd., and their Managing Agents, Khatau & Company (P) Limited were justified in dismissing with effect from 15th July 1964 the affected workmen Bandhu Lohar, Blacksmith, Govind Lohar, Blacksmith, Dukhi Shao, Hammerman and Govind Lohar, Hammerman and, consequently, they are not entitled to any relief. The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947.

(Sd.) N. VENKATA RAO.

Presiding Officer,

Central Government Additional Industrial Tribunal, Dhanbad.

APPENDIX I

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

REFERENCE No. 49 OF 1967

Employers in relation to the Balihari Colliery of Messrs Balihari Coal Co. (P) Ltd.
P.O. Kusunda, Distt. Dhanbad.

AND

Their workmen

List of Documents Admitted in Evidence for the Employers

| Distinguishing mark or number | Description of document & date | Date of admission | Whether admitted after or without objection. |
|-------------------------------|--|-------------------|--|
| 1 | 2 | 3 | 4 |
| Ex.M1 (a) | Manager's letter dt. 20-6-64 to Bandhu Lohar . . . | 8-8-67 | A limited |
| Ex.M1 (b) | Do. to Govind Lohar, hammerman. | Do. | Do. 4 |

| 1 | 2 | 3 | 4 |
|-----------|--|---------|-----------|
| Ex.M1 (c) | Manager's letter dt. 20-6-64 to Govind Lohar, blacksmith | 8-8-67 | Admitted |
| Ex.M1 (d) | Do. to Dukhi Shao | Do. | Do. |
| Ex.M2 (a) | Manager's letter dt. 26-6-64 Bandhu Lohar | Do. | Do. |
| Ex.M2 (b) | Do. to Govind Lohar, blacksmith | Do. | Do. |
| Ex.M2 (c) | Do. to Dukhi Shao | Do. | Do. |
| Ex.M2 (d) | Do. to Govind Lohar | Do. | Do. |
| Ex.M3 | Joint representation dt. 23-6-64 by S/Sri Dukhi Shao, Bandhu Lohar, Govind Lohar and Govind Lohar hammerman. | Do. | Do. |
| Ex.M4 (a) | Charge-sheet dt. 11-6-64 issued to Bandhu Lohar | Do. | Do. |
| Ex.M4 (b) | Do. to Dukhi Shao | Do. | Do. |
| Ex.M4 (c) | Do. to Govind Lohar, blacksmith | Do. | Do. |
| Ex.M4 (d) | Do. to Govind Lohar, hammerman | Do. | Do. |
| Ex.M5 | Statement dt. 16-6-64 of Bandhu Lohar | 23-8-67 | On proved |
| Ex.M6 | Statement of Sri Dukhi Shao dt. 16-6-64 | Do. | Do. |
| Ex.M7 | Statement dt. 16-6-64 of Sri Govind, blacksmith | Do. | Do. |
| Ex.M8 | Statement dt. 16-6-64 of Sri Govind Lohar, hammerman | Do. | Do. |
| Ex.M9 | Statement dt. 16-6-64 of Sri D. G. Gupte, Agent | Do. | Do. |
| Ex.M10 | Statement of Sri C. S. Sharma, Manager dt. 16-6-64 | Do. | Do. |
| Ex.M11 | Statement dt. 16-6-64 of Sri R. G. Jam, Asstt. Manager | Do. | Do. |
| Ex.M12 | Statement dt. 23-6-64 of Ram Chandra, office peon | Do. | Do. |
| Ex.M13 | Enquiry Report of the concerned workman reported by O. P. Verma dt. 4-7-64 addressed to manager. | Do. | Do. |
| Ex.M14 | Letter dt. 9-7-64 of the colliery manager to Director regarding dismissal of workmen | Do. | Do. |
| Ex.M15 | Letter dt. 11-7-64 to Manager regarding dismissal order from Director. | Do. | Do. |

List of Documents admitted in evidence for the Workmen

| Distin- guishing mark or number | Description of document & date | Date of admission | Whether admitted after or without objection |
|--|--|----------------------|---|
| Ex.W1 (a) | Charge-sheet No. CH/OM/851/6/64 dt. 11-6-64 | 8-8-67 | Admitted |
| Ex.W1 (b) | Do. No. CH/OM/849/6/64 dt. 11-6-64 | Do. | Do. |
| Ex.W1 (c) | Do. No. CH/OM/848/6/64 dt. 11-6-64 | Do. | Do. |
| Ex.W1 (d) | Do. No. CH/OM/850/6/64 dt. 11-6-64 | Do. | Do. |
| Ex.W2(a) | Reply of charge-sheet dt. 13-6-64 of Sri Bandhu Lohar. | 8-8-67 | Do. |
| Ex.W2(b) | Do. Govind Lohar dt. 12-6-64 | Do. | Do. |
| Ex.W2(c) | Do. Dukhi Shao dt. 12-6-64 | Do. | Do. |
| Ex.W2(d) | Do. Govind Lohar dt. 12-6-64 | Do. | Do. |

| Distingui- shing mark of number | Description of document and date | Date of admission | Whether admitted after or without objection |
|---------------------------------------|---|----------------------|---|
| Ex.W3(a) | Manager's letter dt. 13-6-64 to concerned workman . No. CSS/OM/869/6/64 | 8-8-67 | Admitted |
| Ex.W3(b) | Do. CSS/OM/865/6/64 | Do. | Do. |
| Ex.W3(c) | Do. CSS/OM/863/6/64 | Do. | Do. |
| Ex.W3(d) | Do. CSS/OM/864/6/64 | Do. | Do. |
| Ex.W4 | Joint petition of workmen dt.16-6-64 addressed to manager | Do. | Do. |
| Ex.W5(a) | Letter No. ENQ/CH/937/6/64 dt. 16-6-64 of Manager. | Do. | Do. |
| Ex.W5(b) | Do. ENQ/OM/938/6/64 | Do. | Do. |
| Ex.W5(c) | Do. ENQ/OM/939/6/64 | Do. | Do. |
| Ex.W6 | Joint letter of workmen dt. 27-6-64 to Manager | Do. | Do. |
| Ex.W7 | Letter No. BL-2/D(620)/64 dt. 9-7-64 of General Secretary to Manager. | Do. | Do. |
| Ex.W8 | Letter No. B.L. D/627/64 dt. 15-7-64 of General Secre- tary to Manager. | Do. | Do. |
| Ex.W9 | Letter No. B.L.D/2(629)/64 dt. 16-7-64 of General Secretary to C. O. (C) Dhanbad. | Do. | Do. |
| Ex.W10 | Letter No. D. 144/1(194)/64 dt. 16-7-64 of Conciliation Officer, Dhanbad-I. Fixing the date for conciliation. | Do. | Do. |
| Ex.W11 | Letter dt. 20-7-64 of the General Secretary to Concilia- tion Officer (Central) Dhanbad-I | Do. | Do. |
| Ex.W12 | Letter dt. 25-7-64 of the Conciliation Officer (Central) Dhanbad-I to Manager. | Do. | Do. |
| Ex.W13(a) | Letter dt. 15-7-64 of manager to Shri Govind Lohar, hammerman. | Do. | Do. |
| Ex.W13(b) | Do. to Govind Lohar, blacksmith | Do. | Do. |
| Ex.W13(c) | Do. to Dukhi Shao, hammerman. | Do. | Do. |
| Ex.W13(d) | Do. to Bandhu Lohar, blacksmith | Do. | Do. |
| Ex.W14 | Certified copy of the standing orders. | Do. | One Proof. |
| Ex.W15 | Letter dt. 20-7-64 of Sri S.V. Acharior, General Sec- retary to Manager, Bahhari Colliery | Do. | Do. |
| Ex.W16 | Joint petition dt. 16-6-64 of the concerned workmen to the enquiry officer Bahhari Colliery. | Do. | Do. |
| Ex.W17 | Letter dt. 29-6-64 of Shri Govind Lohar blacksmith to manager, Bahhari Colliery. | Do. | Do. |

(Sd.) N. VENKATA RAO

Presiding Officer, Central Government Additional Industrial Tribunal,
Dhanbad.

APPENDIX II

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No.2)

AT DHANBAD.

REFERENCE NO. 49 OF 1967.

Employers in relation to Bahhari Colliery of M/s. Bahhari Coal Co. (P) Ltd.,
P. O. Kusunda, Distt. Dhanbad.

AND

Their workmen.

List of Witnesses Examined for the Employers.

| No. of witness | Name of witness | Date of exa- mination |
|-------------------|------------------|--------------------------|
| MW1 | Sri A. D. Shukla | 23-8-67 |
| MW2 | Sri Ramchandra | Do. |
| MW3 | Sri D.G. Gupta | Do. |

List of Witness Examined for the Workmen

| No. of witness | Name of witness | Date of examination. |
|----------------|-----------------------|----------------------|
| WW1 | Shri S. V. Acbariar | 24-8-67 |
| WW2 | Shri Bandhu Lohar | Do. |
| WW3 | Shri Dukhi Shao | Do. |
| WW4 | Shri Govind Mistry | Do. |
| WW5 | Shri J. Bhattacharjee | Do. |

(Sd.) N. VENKATA RAO,

Presiding Officer,

Central Government Additional Industrial Tribunal,
Dhanbad.

[No. 2/99/64-LRII.]

New Delhi, the 14th December 1967

S.O. 4528.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal No. 2, Dhanbad, in the industrial dispute between the employers in relation to the Digwadih Colliery of Messrs. Tata Iron and Steel Company Limited, Jamadoba, Post Office Jealgora, District Dhanbad, and their workmen, which was received by the Central Government on the 12th December, 1967.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2)
AT DHANBAD.**

In the matter of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947.

REFERENCE No. 19 of 1967

PARTIES:

Employers in relation to the Digwadih Colliery of Messrs. Tata Iron and Steel Company Limited, Jamadoba, Post Office Jealgora, District Dhanbad.

AND

Their workmen.

PRESENT:

Sri Nandagiri Venkata Rao, Presiding Officer.

APPEARANCES:

For the Employers—Sri S. N. Singh, A.C.P. & W. O.

For the Workmen—Sri Pritish Chanda, President, Tata Colliery Workers' Union.

STATE: Bihar.**INDUSTRY:** Coal.

Dhanbad, dated the 4th December 1967

SCHEDULE

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Digwadih Colliery of Messrs. Tata Iron and Steel Company Limited, Jamadoba, Post Office Jealgora, District Dhanbad, and their workmen by its order No. 2/4/65-LRII dated the 8th February, 1965 referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

SCHEDULE

“Whether the dismissal with effect from the 10th October, 1964, of Sarvashri Muneshwar, Hari Ahir, Jagarnath, Coalfield Recruiting

Organisation Miners of the Digwadih Colliery of Messrs. Tata Iron and Steel Company Limited by the management of the said colliery was justified? If not, to what relief are the workmen entitled?"

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 22 of 1965 on its file. The workmen filed their statement of demands. While it was pending before the Central Government Industrial Tribunal, Dhanbad the proceeding was transferred to this Tribunal, by the Central Government by its order No. 8/25/67-LRII dated 8th May, 1967 under Section 33(B)(1) of the Industrial Disputes Act, 1947. Consequently, the reference is renumbered on the file of this Tribunal as reference No. 19 of 1967. The employers also filed their statement of demands.

3. The affected workmen, Muneshwar, Hari Ahir and Jagarnath (hereinafter referred to as the affected workmen) were Coal Recruiting Organisation Miners of the Digwadih Colliery of the opposite party. As a result of a domestic enquiry the three affected workmen were dismissed from services with effect from 10th October, 1964. The case of the workmen is that the dismissal of the affected workmen was the outcome of the victimisation policy of the opposite party, in as much as they took a leading part in organising the C.R.O. Labourers under the Tata Colliery Workers' Union and that the domestic enquiry was nothing but a show and it was held in a perfunctory manner against all the accepted principles of natural justice. The defence pleaded by the employers is that they are unaware if any of the affected workmen was a member of any union on or before 10th October, 1964, that the allegation of victimisation is baseless and that the enquiry held was in conformity with the Certified Standing Orders of the colliery and prescribed procedure. The employers also took objection that the dispute involved in the reference was an individual dispute and not Industrial Dispute.

4. The workmen were represented by Sri Prithish Chanda, President, Tata Colliery Workers' Union and the employers by Sri S. N. Singh, A.C.P. & W.O. By consent of the workmen Exts. M1 to M12 were marked for the employers and by consent of the employers Exts. W1 to W3 were marked for the workmen. On behalf of the workmen four witnesses were examined and Exts. W4 to W7 were marked.

5. It appears that sometime after 1961, majority of the C.R.O. workmen became members in the Union of the I.N.T.U.C. and remained so till the beginning of 1963, when they started becoming members of the union belonging to U.T.U.C. One of the affected workman, Muneshwar, who examined himself as WW1, has deposed that since 1963 he was an active member of the U.T.U.C. Union, writing applications on behalf of the member workmen in respect of their grievances and organising meetings etc. He was also enrolling members. He had himself become member and paid the subscription and also had collected subscriptions from the other two affected workmen, Jagarnath and Hari Ahir. He has identified the counterfoils of the receipts, Ext. W4 relating to Jagarnath, Ext. W5 relating to Hari Ahir and Ext. W6 relating to himself and also identified his signatures on them as Collector of the subscriptions. The affected workman, Jagarnath also examined himself as WW3 and deposed that he, Muneshwar and Hari Ahir are members of the U.T.U.C. branch since 1963 and that Muneshwar had collected subscriptions relating to his membership. He has also identified the counterfoil of his receipt, Ext. WW4. Anil Sarkar, the Secretary of the U.T.U.C. Union is examined as WW4. He has described the procedure relating to enrolment of members and collection of subscriptions from them. According to him the printed receipt books are distributed among his workers they collect subscriptions from the individual members issuing receipts alongwith their their signatures and submit the counterfoil books alongwith the subscriptions collected, to him. Thus names of such members are entered into the membership register according to convenience. He further deposed that if there is a dispute regarding membership of any individual, the counterfoil is more authentic than the membership register. The three witnesses are sufficiently cross-examined, but nothing is elicited to affect their veracity. The failure report of the Conciliation Officer, Ext. W2 shows that the Secretary, Tata Colliery Workers' Union represented the case of the affected workmen before him. There is absolutely no rebuttal evidence in this respect. Further, the employers had pleaded merely their ignorance about the affected workmen being members of the U.T.U.C. Branch. Thus, I do not find any substance in the objection raised by the employers that the dispute involved in the reference was not an industrial dispute.

6. The chargesheets issued to the three affected workmen are Exts. M1, M2 and M3. They are issued on 3/5/9/1964. The allegation made in the chargesheets

was that on 31st August, 1964 at about 10-30 p.m. in the 'B' shift duty the three affected workmen assaulted one Ramnarayan, C.R.O. Labour while on duty underground in 16A seam near 11th level of 125 H.P. dip, and that the act of the affected workmen amounted to serious misconduct under Clause 19 (5 and 19) of the Certified Standing Orders making them liable for dismissal from service. The three affected workmen submitted their explanations, denying the charge, allegation and stating that the chargesheets were issued to them with a *mala fide* intention of victimising them. The Welfare Officer issued notices, Exts. M4, M5 and M6 to the affected workmen fixing the date and time of the enquiry and calling upon them to attend it. Ext. M7 is a notice for the enquiry on a subsequent date. Ext. M8 is the enquiry proceedings, Ext. M9 is the enquiry report and Exts. M10, M11 and M12 are the orders issued to the affected workmen dismissing them from service with effect from 10th October, 1964. This material shows that during the enquiry 5 witnesses were examined for the prosecution in addition to the injured Ram Narayan and that the affected workmen produced 9 witnesses in their defence. They declined to produce Marat, Ramsingasan, Adya, Laxman and Ramadhar whom they had cited earlier as their defence witnesses. The enquiry officer concluded that he was not convinced with the evidence of defence and found that the charge against the affected workmen stood fully proved. He also opined that the charge being serious the affected workmen deserved the extreme punishment. The injured workman, Ramnarain has in his evidence that Hari Ahir, Manraj, started the trouble, thereafter Muneshwar and Jagarnath came from 13th level and started telling others to beat him and, thus, all the four started assulting him and threw him on the track. Bhagi deposed that Ramnarain was assaulted by Hari, Manraj, Jagarnath and Muneshwar. Jamuna Ashir is also an eye witness of the occurrence and he deposed that Munshwar, Jagarnath, Hari and Manraj assaulted Ramnarain. Mohamad Mia No. 1 did not see Ramnarain actually being beaten but saw him injured on his forehead and bleeding. He, Bhagi and two others carried Ramnarain to the main line curve. Mohamad Mia No. 2 also saw Ramnarain bleeding with a head injury near the track. Sanat Kumar Laha, the compounder of Digwadih dispensary, deposed that at about 12-30 a.m. he was called for giving medical aid to Ramnarain. He saw injury on right side of his nose and lip. Against this prosecution the evidence the defence witness Rambrich has stated that Ramnarain and Manraj started quarrelling and assulting each other and Ramnarain got serious injuries. He also spoke of the presence of Hari on the scene. The defence witness, Lachran did not see any assult and knew nothing about the occurrence. Parsuram Tewari, also examined on behalf of the affected workmen, deposed that he saw Ramnarain lying with injury on his forehead and on enquiry came to know that Manraj and Ramnarain quarreled for a tub during which Manraj had assulted Ramnarain. R. N. Chakraborty, a mining sirdar, also a defence witness, said that he found Ramnarain lying near the siding line of No. 11 level with injuries on his forehead. N. C. Majhi, an overman, saw Ramnarain being carried and from a stone cutter learned that Manraj has assulted Muneshwar. Ramraj Pandey, saw Ramnarain being carried by Bhagi and Lachran. He also saw bleeding injuries on the forehead of Ramnarain. Bhagi and Lachran told him that Manraj has assulted Ramnarain. Shyamjit has in his evidence that he saw a crowd at the main line curve and learnt that Manraj had assulted Ramnarain. Tirath says that Ramnarain and Manraj started a quarrel over loading the 11th tub, they started fighting and in that Ramnarain got injuries. The last defence witness Ramji, also deposed that Manraj and Ramnarain started quarrelling, but he did not see how Ramnarain got injuries. From the defence evidence also it is corroborated that Ramnarain had sustained injuries. Having gone through the evidence of the defence witnesses, I find that it corroborates to an extent the prosecution case. It does not speak about the presence of the affected workmen, but it does not categorically state that they were not present on the scene of occurrence and were present at any other place. I am not expected to appreciate the evidence critically as an appellate court and come to my own conclusion.

7. It is argued for the affected workmen that the management did not apply its mind to the explanations submitted by the affected workmen to the chargesheets served on them before making up its mind to proceed with the enquiry. It is pointed out that the explanation of the affected workmen were submitted on 9th September, 1964 while two notices, Exts. M4 and M6 were prepared on the same date and the notice, Ext. M5 much earlier to it. It is also observed that out of the four workmen assulting Ramnarain, the workmen, Manraj, is exonerated and only the three affected workmen were proceeded against, that the joint enquiry against the three affected workmen vitiated the enquiry and that the findings of the enquiry officer were perverse. I do not find any substance in the objections raised. As I have already pointed out, it cannot be said that the enquiry officer

had no material at all before him to support his findings. The affected workmen cross-examined the prosecution witnesses at a great length and, as such, there is no basis for complainant that the affected workmen were not given opportunity to cross-examine the prosecution witnesses or to lead their defence. It is argued that the enquiry officer did not discuss the evidence in detail. The report of the enquiry officer should not be judged as a judgement of a court of law. I also do not find any force in the objection that the injury certificates relating to Ramnarain are not produced, when the defence witnesses themselves conceded Ramnarain having received head injuries. Under clause 19 (5 of 19) of the Certified Standing Orders fighting is misconduct to be visited with the penalty of dismissal. I do not find any flaw in the departmental enquiry conducted against the affected workmen or in the punishment imposed on them. In this view, I find no roof to infer that the action of the employers was *mala fide* with the intention of victimising the affected workmen.

8. I, therefore, find that the dismissal of the affected workmen, Muneshwar, Hari Ahir and Jagarnath Coalfield Recruiting Organisation Miners of the Digwadih Colliery of Messrs. Tata Iron and Steel Company Limited by the management of the said colliery, with effect from 10th October, 1964 was justified, and, consequently, the affected workmen are not entitled to any relief. The award is made accordingly and submitted under Section 13 of the Industrial Disputes Act, 1947.

(Sd.) N. VENKATA RAO,

Presiding Officer,

Central Government, Additional Industrial Tribunal,
Dhanbad.

APPENDIX I

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

REFERENCE NO. 19 OF 1967

Employers in relation to Digwadih Colliery of M/s. Tata Iron & Steel Co. Ltd., P.O. Jealgora, Distt. Dhanbad.

AND

Their workman

List of documents admitted in evidence for the Employers

| Distinguishing mark or number | Description of documents & date | Date of admission | Whether admitted after or without objection |
|-------------------------------|---|-------------------|---|
| Ex. M. 1 | Chargesheet No. 399 dated 3/5-9-64 issued to Shri Muneshwar C.R.O. together with its reply | 17-7-67 | Admitted. |
| Ex. M. 2 | Chargesheet No. 398 dt. 3/5-9-64 issued to Shri Hari Ahir, C.R.O. Labour together with its reply. | Do. | Do. |
| Ex. M. 3 | Chargesheet No. 379 dt. 3/5-9-64 issued to Sri Jagarnath, C.R.O. Labour together with its reply | Do. | Do. |
| Ex. M. 4 | Letter No. 371 dt. 9-9-64 to Sri Muneshwar to call for enquiry | Do. | Do. |
| Ex. M. 5 | Letter No. 309 dt. 3/5-9-64 to Sri Hari Ahir to call for an enquiry | Do. | Do. |
| Ex. M. 6 | Letter No. 370 dt. 9-9-64 to Sri Jagarnath, C.R.O. Labour to call for an enquiry | Do. | Do. |
| Ex. M. 7 | Letter No. Dig/WO(P) 374/66 dt. 14-9-64 issued to S/Shri Hari Ahir, Jagarnath and Muneshwar | Do. | Do. |

| 1 | 2 | 3 | 4 |
|-----------|--|---------|----------|
| Ex. M. 8 | Enquiry proceedings in 48 pages | 17-7-67 | Admitted |
| Ex. M. 9 | Recommendation of the manager for dismissing the workmen | Do. | Do. |
| Ex. M. 10 | Copy of letter No. AJG/31/2388/64 dt. 5-10-64 | Do. | Do. |
| Ex. M. 11 | Copy of letter No. AJG/31/2387/64 dt. 5-10-64 | Do. | Do. |
| Ex. M. 12 | Copy of letter No. AJG/31/2386/64 dt. 5-10-64 | Do. | Do. |

List of document admitted in evidence for workman

| Distinguishing mark or number | Description of document and date | Date of admission | Whether admitted after or without objection |
|-------------------------------|---|-------------------|---|
| Ex. W 1 | Copy of management's note before the Conciliation Officer dt. 10-12-64 | 7-8-67 | Admitted |
| Ex. W 2 | Failure report of the conciliation in original | Do. | Do. |
| Ex. W 3 | Copy of the management's letter No. JMB/475/14767 dt. 13/14-11-64 from C.M.E. TISCO to Conciliation Officer (C) Dhanbad | Do. | Do. |
| Ex. W 4 | Counterpart of the membership report No. 8389 of Sri Jagannath | Do. | On proved of WW1 |
| Ex. W 5 | Counterpart of the membership report No. 8390 of Alta Singh | Do. | Do. |
| Ex. W 6 | Counterpart of the membership receipt No. 8392 of Sri Muneshwar | Do. | Do. |
| Ex. W 7 | Copy of the joint representation by C.R.O. Labour | Do. | On proved of WW2 |

(Sd.) N. VENKATA RAO,

Presiding Officer,
Central Government
Additional Industrial Tribunal,
Dhanbad

APPENDIX II

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2)
AT DHANBAD

REFERENCE No. 19 OF 1967

Employers in relation to Digwadih Colliery of M/s. Tata Iron & Steel Co. Ltd., P. O. Jealgora,
Distt. Dhanbad.

AND

Their Workman

List of witnesses Examined for the Employer

| No. of witnesses | Name of witness | Date of examination |
|------------------|-----------------|---------------------|
| NIL | | |

List of witnesses Examined for the workman

| No. of witness | Name of witness | Date of Examination |
|----------------|--------------------|---------------------|
| WW 1 | Muneshwar Kumar | 7-8-67 |
| WW 2 | Bindeshwari Prasad | 7-8-67 |
| WW 3 | Jagannath | 7-8-67 |
| WW 4 | Anil Sarkar | 7-8-67 |

(Sd.) N. VENKATA RAO,

Presiding Officer,
Central Government
Additional Industrial Tribunal,
DHANBAD.

[No. 2/4/65-LRII.]

S.O. 4529.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the Ardhogram Khas Colliery, Post Office Ardhogram, District Bankura and their workmen, which was received by the Central Government on the 8th December, 1967.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

REFERENCE No. 11 OF 1967

PARTIES:

Employers in relation to the Ardhogram Khas Colliery,

AND

Their workmen

PRESENT:

Shri S. K. Sen—Presiding Officer.

APPEARANCES:

On behalf of Employers—Shri Birendra Nath Sanyal, Advocate.

On behalf of Workmen—Shri B. Malkhandy Vice-President, Colliery
Muzdoor Sabha.

STATE: West Bengal

INDUSTRY: Coal Mines

AWARD

By Order No. 6/123/66-LRII dated 3rd February 1967, the Central Government referred for adjudication an industrial dispute between the employers in relation to the Ardhogram Khas Colliery, P.O. Ardhogram, Distt. Bankura, and their workmen in respect of the matters specified in the following schedule:

"Whether alternative jobs were available on the closing of Ardhogram Khas Colliery on the 10th March, 1965? If so, whether the non-absorption of the retrenched workers to the said jobs was justified? If not, to what relief are they entitled?"

2. According to the case of the union, the Colliery Mazdoor Sabha, Raniganj, the work in the mine of Ardhogram Khas Colliery was stopped by the order of an Inspector of Mines with effect from 10th March, 1965. The stoppage was ordered because there was an explosion underground owing to inflammable gas having collected and caught fire on 8th March, 1965. When the work was stopped, 195 workmen were working in the colliery; they reported for duty for some days regularly but their attendance was not recorded and they were not given any lay-off benefit. On 15th March, 1965 the management gave notice on all the workmen retrenching them or terminating their services. But about that time the management engaged two contractors for working a quarry situated close to the incline where work had been stopped, and the contractors were allowed to engage their own workman and none of the 195 retrenched workmen were employed in that job. Work in the incline was started again in the first or second week of May, 1965 and about 120 of the retrenched workmen were re-employed, after being given notice to report for duty, but 60 or 70 persons were not given employment even then. The union claims wages from 10th March 1965 to 12th May 1965 for the 120 workmen who were re-employed when the working of the incline was started again in May, 1965, and full wages from 10th March 1965 upto date for the 60 or 70 workmen who were not re-employed on the reopening of work in the incline.

3. The case was fixed for hearing on 27th September 1967 after waiting for some months for written statements; the union filed its written statement on 22nd September 1967 and the management did not file their written statement at all. The date of hearing was shifted from 27th September to 9th October 1967 at the prayer of the union. Thereafter a representative of the management appeared for further adjournment and the matter was adjourned to 16th November 1967 for hearing. On 16th November 1967 the representative of the management again filed an application for time, stating that as the mine was closed the management had not been able to collect the necessary papers. Accordingly, the hearing was adjourned to 4th December 1967 with the warning that no more adjournment would be given in any circumstances. But on 4th December 1967 the representative of the management again filed a petition for adjournment, and when that was rejected the management withdrew from the hearing. The tribunal has therefore been handicapped by not having direct evidence of the relevant facts for a proper decision of the reference.

4. It should be mentioned that after the working of the mine had been re-started on the 10th or 12th of May, 1965 it was closed down again with effect from 30th September, 1965 and the working of the colliery has not yet been resumed. A dispute over the closure of the colliery with effect from 30th September, 1965 was referred to adjudication by a Government order dated 1st April 1966-LRII dated 6th July 1966, Reference Case No. 113 of 1966 being started thereon. An award was passed in that case on 2nd March 1967. Shri Robin Chatterjee, Vice-President of the Colliery Mazdoor Sabha has produced a copy of that award and has referred to it. The dispute in the present case arose much earlier but the reference was made later; the reason is said to be that the management gave an understanding that the dispute would be amicably settled and so delayed the conciliation proceedings. The union appears to have dropped the matter at one stage, for the failure report shows that the dispute was started afresh on a fresh complaint made by the Vice-President of the Colliery Mazdoor Sabha dated 18th May 1966.

5. It appears from the award of the Reference Case No. 113 of 1966 that the mine was a seasonal mine, work therein being stopped during the rainy season from 15th June to 30th September or 31st October each year, and the workmen excepting some of the Supervisory staff and office staff were appointed on a temporary basis and discharged when the working of the mine was closed down

but re-appointed with the opening of the next season if they presented themselves for work. In this case Shri Robin Chatterjee, Vice-President of the union is the only witness examined, and his statement that in 1965 the Mines Department gave permission to work the incline during the rainy season also, goes to show that in previous years the work in the incline was stopped during the rainy season. Shri Chatterjee said that in previous years, the quarry was worked in the rainy season, and 100—120 of the incline workmen were employed in the quarry. Thus he sought to claim continuous service. But in the comments of the Union submitted by him to the Conciliation Officer (copy attached to the failure report) it is recited that "the workers came to know that the quarry which was suspended from its work for several years was going to be started with new man and contractors". So there could not have been any employment in the quarry during the rainy season for several years before 1965. In the notices of termination of service which were issued by the management on 15th March 1965, (collectively marked Ext. 2), it appears that the workmen were divided in two categories namely those who were purely temporary and had put in less than 3 months service, and those who had not completed one year's service and who were offered one week's wages in lieu of notice. In all these notices not one of the workers was recognised as a permanent workman. None of the workmen has appeared before the tribunal as a witness. Possibly the workmen no longer have any interest in the Reference case.

6. Retrenchment as defined in clause oo of Sec. 2 of Industrial Disputes Act includes termination of service for any reason whatever otherwise than as punishment by way of disciplinary action or termination of service on the ground of continued ill health. Therefore even temporary workman whose service has been terminated may be said to be retrenched, and though not entitled to retrenchment benefit under Sec. 25F of the Act, may claim re-employment under provisions of Sec. 25H of the Act. The question therefore is whether alternative jobs were available when the incline of the Ardhogam Khas Colliery was closed down by the order of the Mines Inspector on 10th March, 1965. Shri Robin Chatterjee has said that on the closure of the incline the management engaged two contractors, Milkhi Ram Pandit and Panchkari Chatterjee, to work a quarry situated near the incline and that these contractors engaged between them about 70 or 80 men, but they were their own men and not the old employees of the mine who had been retrenched with effect from 10th March 1965. Shri Robin Chatterjee stated that contractors started work from 11th March, 1965. The documentary evidence produced in the case however does not support this statement. A memorandum dated 22nd March 1965 bearing the thumb impressions of 50 to 60 workmen was submitted through the union to the Conciliation Officer, Raniganj. A copy of the memorandum is Ext. 4. Therein there is no mention of any contractors being employed to work in the quarry; the Conciliation Officer was being requested to see that the work of the mine was started as quickly as possible after rectification of the irregularities found by the Mines Inspector and to insist on payment of lay off compensation. Now if the workmen did not complete 12 months of continuous service, they are not entitled to lay-off compensation, and as regards restarting of work in the mine, it is admitted that that was started in the first or second week of May, 1965 and that about 120 of the retrenched workmen were re-employed there. In letter Ext. 5 dated 26th April, 1965 written by the Vice-President, Shri Robin Chatterjee, to the Conciliation Officer, Raniganj, there is mention of engagement of one contractor by the management; and in the letter Ext. 5(a) dated 1st May 1965 from Shri Robin Chatterjee to the Conciliation Officer, there is reference to engagement of two contractors namely Milkhi Ram Pandit and Panchkari Chatterjee. The union has also produced a letter, Ext. 1A from the Conciliation Officer, Raniganj addressed to the Manager, Ardhogam Khas Colliery complaining that the management had engaged two contractors and allowed them to engage their own labour instead of the retrenched workmen; but this letter bears the date 5th May, 1965, and shortly thereafter work in the incline was restarted and the workmen were given notice to report for duty; the notices which were given to the workmen have collectively been marked Ext. 6, and many of them bear the date 5th May 1965; some also bear an earlier date like 30th April 1965. Accordingly, I am unable to accept the statement of Shri Chatterjee that from 11th March, 1965 two contractors were engaged by the management for working in the quarry. Even if it is accepted that about 1st of May, 1965 two contractors were engaged for work in the quarry it is clear that at about the same time the retrenched workmen were also notified to come and report for duty. Therefore I cannot find that alternative jobs were available when the colliery was closed down on 10th March, 1965. The contractors appear to have been engaged just before the working of the mine i.e., the incline was resumed and at that time the retrenched workmen were also given notice to rejoin their posts and it is admitted that 120

of them actually did so. As regards the remaining 60 or 70, if there was no work for them naturally the management could not re-employ them. There is no evidence that work in the quarry went on even after the working of the incline was resumed. Though the attitude of the management in the present case appears to have been one of non-cooperation which is regrettable, it must be held that the union has not been able to prove its contention that the management deliberately avoided absorption of the retrenched workers when the colliery had to be closed under the order of the Mines Inspector with effect from 10th March, 1965.

7. My award therefore is that alternative jobs were not available when the Ardhogram Khas Colliery was closed down with effect from 10th March, 1965 until the incline was fit for reopening in the beginning of May, 1965 when 120 of the retrenched workmen were actually re-employed, and therefore the question of non-absorption of the retrenched workmen does not arise. The workmen, therefore, are not entitled to any relief in this case.

(Sd.) S. K. SEN,
Presiding Officer.

Dated, 4th December 1967.

[No. 6/123/66-LRII.]

S.O. 4530.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the Pure Searsole Colliery, Post Office Searsolerajbari (Burdwan) and their workmen, which was received by the Central Government on the 12th December, 1967.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

REFERENCE No. 27 OF 1967

PRESENT:

Employers in relation to the Pure Searsole Colliery.

AND

Their Workmen.

PARTIES:

Shri S. K. Sen—Presiding Officer.

APPEARANCES:

On behalf of Employers:—Shri R. N. Choudhury.

On behalf of Workmen:—Shri Robin Chatterjee, Vice-President, Colliery Mazdoor Sabha.

STATE: West Bengal.

INDUSTRY: Coal Mines.

AWARD

By Order No. 6/10/67-LRII dated 6th April 1967, the Central Government referred for adjudication an industrial dispute between the employers in relation to the Pure Searsole Colliery, P.O. Searsolerajbari (Burdwan), and their workmen in respect of the matters specified in the following schedule.

- "1. Whether the services of Shri Bholanath Banerjee were utilised by the management of Pure Searsole Colliery as an apprentice or munshi? In either case, to what wages and allowances is he entitled and from what date?
2. Whether the termination of services of the said workman with effect from the 23rd December, 1966 was justified? If not, to what relief is he entitled?"

2. Although both parties have appeared at the hearing, neither party filed any written statement before the tribunal and the respective cases had to be gathered from the failure report and the papers annexed therewith. According to the letter of Shri Robin Chatterjee, Vice-President of the Colliery Mazdoor Sabha, Raniganj,

dated 29th November 1966 addressed to the A.L.C., Central, Raniganj, by which the dispute concerning the termination of service of Bholanath Banerjee was raised. Bholanath Banerjee was a mining apprentice. It was however stated that he was made to work as an underground munshi but he was not paid as a munshi or Assistant Sirdar, and his name was not entered in the pay sheet of the workmen, and that the union raised a dispute about this before the A.L.C., and thereupon the management out of grudge served one month's notice of termination of service on Bholanath Banerjee on 23rd November 1966 and his service was terminated with effect from 23rd December 1966, although apprentices junior to him were allowed to remain in service. The management's case was that Bholanath Banerjee had been taken as a mining apprentice on 21st February 1965 and that he qualified as a shot firer and so the period of apprenticeship had come to an end and he was given formal notice of termination of apprenticeship; and that nothing illegal was done by the management.

3. At the hearing the management has examined two witnesses and proved certain documents to prove their case. The union though it was granted one adjournment after the commencement of the hearing to enable it to produce the workman concerned, was not able to produce the workman; Shri Robin Chatterjee has submitted before the tribunal that though a letter was written to him at his home address and also at his sister's address, no response was made by the workman concerned. No witness has been examined on behalf of the union, although Shri Chatterjee has cross-examined the witnesses for the management and argued the case for the union. Both the witnesses examined for the management denied that Bholanath Banerjee was made to work as a munshi. MW 2-Debi Prasad Hazra stated that at No. 3/4 incline where Bholanath Banerjee used to work as apprentice, the mining sirdar used to prepare the raising report and there was no assistant mining sirdar or munshi to do that work. From the evidence of MW 1-Shri Charu Chandra Mukherjee, Headclerk, it appears that Bholanath Banerjee when serving as a mining apprentice worked sometimes with the timber mistries, sometimes with the mining sirdar and sometimes with the shot firer. It may be that when he was working with the mining sirdar he was asked to prepare some raising reports. But that would not show that Bholanath Banerjee was regularly employed as an Assistant sirdar or pit munshi and made to write the daily raising reports. The evidence of both the witnesses for the management is that Bholanath Banerjee was taken as a mining apprentice on 25th February 1965, and after he had passed the shot firer's certificate examination, the period of his apprenticeship was terminated with effect from 23rd December 1966 by service of a notice, of which the office copy is Ext. B. Ext. B states that he had been given sufficient time to gain experience and to appear at the Statutory Examination of the Mines Department and that his apprenticeship would be terminated with effect from 23rd December 1966. The B form register for 1965 Ext. A, was produced to show the date of commencement of the apprenticeship and the date of termination. The date of commencement shows some overwriting in respect of digits for the year; the original figures appear to be 63 and this has been altered to 65 by overwriting. It appears that before the Conciliation Officer the union's case was that in April 1963 Bholanath Banerjee had prepared some raising reports showing the names of pick miners and the quantity of coal loaded by them. Regulation 18 of the Coal Mines Regulation, 1957, provides that no person shall be admitted as a candidate at an examination for a shot firer's certificate unless the Board is satisfied that he has had practical experience in a coal mine for a period of not less than 2 years. If Bholanath Banerjee had really started apprenticeship on 21st February 1965 and had been away on leave from 12th June 1965 to 9th January 1966 as shown in the B form register, he could not possibly have completed two years of training and appeared for shot firer's certificate examination by November, 1966. I therefore think that Bholanath Banerjee was really taken as a mining apprentice from 21st February 1963 and not from 21st February 1965. But whatever the length of the period that Bholanath Banerjee put in as an apprentice at the Pure Searsole Colliery, after he had appeared at the shot firer's certificate examination and thus completed his period of training, if the colliery management did not need him in the post for which he had qualified, they were not bound to retain him. In such circumstances the notice terminating his apprenticeship cannot amount to termination of service of a permanent workman. The model Standing Orders under the Industrial Employment (Standing Orders) Central, Rules 1946 define an apprentice as a learner who is paid an allowance during the period of his training. Although the definition of a workman under the Industrial Disputes Act includes an apprentice, the definition must be understood subject to the status of an apprentice as a learner and not as a permanent workman. MW 1 has stated that from time to time mining apprentices are taken at the colliery; that a person who wants to qualify as a shot firer, or surveyor or second class manager applies for being taken

as an apprentice and if the manager is satisfied that he is a suitable person and the owner gives his approval, then the person is taken as an apprentice; and that the length of the term depends on the job for which the candidate wants to qualify. MW 1 also has stated that there were two apprentices who were junior to Bholanath Banerjee, namely Bajrang Lal Sharma and Anadi Kr. Lhebar. This also appears from the register of wages of mining apprentices, Ext. C. In view of the purpose for which apprentices are taken, there is no substance in the contention of Shri Chatterjee that although junior apprentices were retained, Bholanath Banerjee's service as an apprentice was terminated wrongfully. It is not a case of retrenchment for a category of permanent workman, in which case the junior most workman has to be retrenched on the principle of 'last come first go'. That principle clearly does not apply to apprentices, because those who come first will naturally complete the period of training as apprentice first and will be the first to go. Shri Chatterjee has next referred to the definition of retrenchment in clause 00 of Section 2 of the Industrial Disputes Act, and has urged that the termination of service of an apprentice amounts to retrenchment and therefore the retrenchment without payment of retrenchment compensation under Section 25F of the Act was bad. I have already mentioned however that an apprentice is only a learner and cannot claim to be a permanent workman and when his apprenticeship is terminated, after he has qualified for the post for which he was under training, it cannot be said that the termination of the apprenticeship is termination of service and amounts to retrenchment. This was also the view taken by the Labour Appellate Tribunal in the case, 1956 LLJ 599 [Balkrishna Ganpat V. Ruston & Hornsby (India) Ltd., Bombay]. The LAT negated the claim that the apprentice should get compensation under Section 25F of the Industrial Disputes Act on the ground that termination of service by expiry of the period stipulated under the express or implied condition of service does not amount to retrenchment. In the present case Shri Chatterjee pointed out that no letter of appointment setting out the terms of employment as an apprentice was issued to Bholanath Banerjee, as admitted by MW 1. But even if such letter of appointment containing the terms of apprenticeship was not issued, it is an implied term of apprenticeship that the apprentice will be on training for the job that he wishes to learn for an agreed period or for so long as he has not qualified for the job. Therefore when at the end of that period or after the apprentice has completed his training the apprenticeship is terminated, it does not amount to termination of service within the meaning of clause 00 of Section 2 of the Act and the apprentice is not entitled to any retrenchment compensation. Shri Chatterjee also argued that even though for a time Bholanath Banerjee was made to work as a *defacto* munshi and submit the daily raising report of the pick miners he was not paid the wages of a pit munshi but only the allowance as apprentice. But as already pointed out in the definition of an apprentice under Model Standing Orders an apprentice is a learner who is paid a certain allowance and he cannot claim a scale of wages equal to the work that he might do from time to time in the course of his training.

4. Accordingly my award is as follows:—

1. Shri Bholanath Banerjee worked at Pure Searsole Colliery as a Mining apprentice, and even if he worked for a time as a *defacto* munshi he is not entitled to the wages of a munshi but to the allowance as apprentice which was paid to him by the management.
2. The so-called termination of service of Bholanath Banerjee with effect from 23rd December, 1966 amounted really to the termination of the apprenticeship after Bholanath Banerjee had qualified for the job which he had become apprentice, and therefore such termination was justified and Bholanath Banerjee is not entitled to any relief.

Sd./- S. K. SEN,
Presiding Officer.

Dated. 5th December 1967.

[No. 6/10/67-LRI.]

New Delhi, the 16th December 1967

S.O. 4531.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta in the industrial dispute between the employers in relation to the Sarpi Kajora Colliery, Post Office Ukhra, Eurdwan and their workmen which was received by the Central Government on the 13th December, 1967.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

REFERENCE No. 78 OF 1967

PARTIES :

Employers in relation to the Sarpi Kajora Colliery.

AND

Their Workmen.

PRESENT :

Shri S. K. Sen—Presiding Officer.

APPEARANCES :

On behalf of Employers—Shri K. P. Mukherjee, Bar-at-Law.

On behalf of Workmen—

STATE: West Bengal.

INDUSTRY: Coal Mines.

AWARD

By Order No. 6/122/66-LRII, dated 21st October, 1967, the Central Government referred for adjudication an industrial dispute between the employers in relation to the Sarpi Kajora Colliery, P.O. Ukhra, Burdwan and their workmen, in respect of the matters specified in the following schedule:

"Whether the management of Sarpi Kajora Colliery was justified in dismissing the following workmen with effect from the dates shown against them

- (1) Shri Srinarayan Tiwari, Machine Driver—7th April, 1966.
- (2) Shri Lalai Pandey, Machine Mazdoor—7th April, 1966.
- (3) Shri Kallash Ram, Surface Trammer—7th April, 1966.

If not, to what relief are the workmen entitled?"

2. According to the case of the management, the three workmen concerned, namely Srinarayan Tiwari, Machine Driver, Lalai Pandey, Machine Mazdoor and Kailash Ram, Surface Trammer, were absent from their work without previous leave for more than 10 days and accordingly they were charge-sheeted and suspended and were dismissed after enquiry. According to the union, no proper enquiry was held and the order of dismissal was therefore bad. The management produced the three workmen concerned and each of them has stated on oath that he has no longer any dispute with the management and does not want to proceed with the reference case in connection with his dismissal by the management of Sarpi Kajora Colliery. The union has not put in appearance before the Tribunal and has not filed written statement. The workmen have stated that they have no connection with the union, particularly after the death of Keshab Banerjee who used to take leading part in organising the Colliery Mazdoor Union. The management apparently has won over the three workmen concerned by making some settlement with them. They have all signed a joint petition with the Agent of the Sarpi Kajora Colliery Shri R. C. Thacker, that they have no dispute with their former employer and that a no dispute award be made in the case.

Accordingly I find that no dispute now exists over the dismissal of three workmen, Shri Srinarayan Tiwari, Shri Lalai Pandey and Shri Kailash Ram.

(Sd.) S. K. SEN,

Presiding Officer.

[No. 6/122/66-LRII.]

Dated, 8th December, 1967.

ORDERS

New Delhi, the 4th December 1967

S.O. 4532.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Jote Dhemu Colliery, Post Office Ukhra, Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

Whether the management of Jole Dhemo Colliery was justified in not allowing Shri Hafiz Mia, Line Mistry, to resume duty on the 2nd February, 1967 after the re-opening of the colliery on the 22nd November 1966? If not, to what relief is the workman entitled?

[No. 6/56/67-LRII.]

S.O. 4533.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Assam Railways and Trading Company Limited, Margherita, Assam and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal Calcutta, constituted under section 7A of the said Act.

SCHEDULE

Whether the management of Messrs Assam Railways and Trading Company Limited, Post Office Margheritta, Assam, was justified in not supplying at concessional rates the full quantum of rice and atta to the workmen in their four Collieries namely, Baragolai, Tipong, Ledo and Namdang, in terms of the award of the Central Government Industrial Tribunal, Dhanbad, in Reference No. 44 of 1960, published with the notification of the Government of India in the late Ministry of Labour and Employment No. S.O. 2955, dated the 7th December, 1961 during the weeks commencing on 27th September 1965, 4th October 1965, 11th October 1965, 18th October 1965, 25th October 1965, 1st November 1965, 8th November 1965, 15th November 1965, 22nd November 1965, 29th November 1965, 6th December 1965, 13th December 1965, 20th December 1965, 27th December 1965, 3rd January 1966, 10th January 1966, 17th January 1966, 24th January 1966, 31st January 1966, 7th February 1966, 14th February 1966, 21st February 1966, 21st March 1966, 9th May 1966, 16th May 1966, 23rd May 1966, 11th July 1966, 12th September 1966, 19th September 1966, 10th October 1966, 31st October 1966, 14th November 1966, 19th December 1966 and 19th December 1966? If not, to what relief are the workmen entitled?

[No. 1/44/67-LRII.]

S.O. 4534.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the New Golukdih Colliery, Post Office Jharia, District Dhanbad and their workmen in respect of the matter specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the action of the management of the New Golukdih Colliery, Post Office Jharia, District Dhanbad in stopping Shri Ram Ratan Sharma, Attendance Clerk, from work with effect from the 21st June, 1967, was justified? If not to what relief is the workman entitled?

[No. 2(125)/67-LR-II.]

New Delhi, the 7th December 1967

S.O. 4535.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Lower Kenda Colliery, Post Office Kajoragram, District Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And Whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

Whether the management of Lower Kenda Colliery Post Office Kajoragram, District Burdwan of Messrs. Khas Kenda Colliery (Private) Limited was justified in terminating the services of Shri Pankaj Ranjan Moitra, Coal Cutting Machine Supervisor, with effect from the 25th May, 1967? If not, to what relief is the workman entitled?

[No. 6/74/67-LRII.]

New Delhi, the 13th December 1967

S.O. 4536.—Whereas an industrial dispute exists between employers in relation to the South Jhagrakhand Colliery, Post Office South Jhagrakhand Colliery, District Surguja, Madhya Pradesh and their workmen represented by the Madhya Pradesh Colliery Workers' Federation, Post Office South Jhagrakhand Colliery District Surguja, Madhya Pradesh;

And whereas, the said employers and the workmen have, by a written agreement, in pursuance of the provisions of sub-section (1) of section 10-A of the Industrial Disputes Act, 1947 (14 of 1947), referred the said dispute to arbitration by the person specified therein, and a copy of the said arbitration agreement has been forwarded to the Central Government;

Now, therefore, in pursuance of the provisions of sub-section (3) of section 10A of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the said arbitration agreement, which was received by it on the 5th December, 1967.

AGREEMENT

Arbitration Agreement under section 10A of the Industrial Disputes Act, 1947 between the management of South Jhagrakhand Colliery of M/s. Jhagrakhand Collieries (P) Ltd. and their workmen represented by the M.P. Colliery Workers' Federation.

PLACE: South Jhagrakhand Colliery.

DATE: 26th November, 1967.

PARTIES:

Representing Employers: .. Sri B. C. Mukherjee, Manager, South Jhagrakhand Colliery P.O. South Jhagrakhand Colliery, District Surguja, M.P.

Representing Workmen: .. Sri G. P. Sharma, Secretary, M.P. Colliery Workers' Federation P.O. South Jhagrakhand Colliery, District Surguja, M.P.

It is hereby agreed between the parties to refer the following industrial dispute to the arbitration of Sri P. C. Rai, Regional Labour Commissioner (C), Jabalpur

(i) Specific matters in dispute:—

“Having regard to the terms of settlement dated 16th January, 1965 read with minutes of discussion of same date over a charter of 40 demands, whether it is obligatory on the part of the management to supply woollen jerseys (Pull-over) to the Surface Trammers of South Jhagrakhand Colliery? If so, from what date?

(ii) Details of the parties to the dispute including the name and address of establishment or undertaking involved:

(1) Manager, South Jhagrakhand Collieries of M/s. Jhagrakhand Collieries (P) Ltd. P.O. South Jhagrakhand Colliery, Distt. Surguja, M.P.

- (2) The Secretary, M.P. Colliery Workers' Federation, South Jhagrakhand Colliery, P.O. South Jhagrakhand Colliery, Distt. Surguja, M.P.
- (iii) Name of the Union, if any, representing the workmen in question :
The M.P. Colliery Workers' Federation, Chirimiri, District Surguja, M.P.
Through its Secretary at South Jhagrakhand Colliery.
- (iv) Total No. of workmen employed in the undertaking affected :—
1300.
- (v) Estimated No. of workmen affected or likely to be affected by the dispute :
52

We further agree that the decision of the arbitrator shall be binding on us

The arbitrator shall make his award within a period of 3 months from date or within such further time as is extended by mutual agreement between us in writing. In case the award is not made within the period abovementioned, the reference to arbitrator shall stand automatically cancelled and we shall be free to negotiate for fresh arbitration.

Representing Employers :

(Sd.) B. C. MUKHERJI,

Representing Workmen :

(Sd.) G. P. SHARMA,

Witnesses :—

1. (Sd.) THANWARDAS P. K.
2. (Sd.) G. R. BHANDARI.

South Jhagrakhand Colliery.

26th November, 1967.

[No. 5/44/67-LRIL]

BALWANT SINGH, Under Secy.

(Department of Labour and Employment)

New Delhi, the 6th December 1967

S.O. 4537.—In exercise of the powers conferred by sub-section (1) of section 5 of the Mines Act, 1952 (35 of 1952), the Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Labour and Employment No. S.O. 531 dated the 2nd March, 1961, namely:—

In the said notification, the following entry shall be omitted, namely:—

“(3) Shri I. J. Badhwar”.

[No. 3/69/67-MI.]

New Delhi, the 14th December 1967

S.O. 4538.—In exercise of the powers conferred by sub-section (1) of section 5 of the Mines Act, 1952 (35 of 1952), the Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Labour and Employment No. S.O. 531 dated the 2nd March, 1961, namely:—

In the said notification, the following entry shall be omitted, namely:—

“(87) Shri O. P. Asija.”

[No. 3/96/67-MI.]

J. D. TEWARI, Under Secy.

(Department of Labour and Employment)

New Delhi, the 7th December 1967

S.O. 4539.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the

Arbitrator in the industrial dispute between the employers in relation to Mercantile Bank Limited, Delhi and their workmen represented by the Delhi State Bank Employees' Federation, Delhi which was received by the Government on the 4th December, 1967

BEFORE SHRI S. K. GOKHALE, REGIONAL, LABOUR COMMISSIONER
(CENTRAL) (TRAINING), NEW DELHI AND ARBITRATOR

In the matter of reference by Agreement dated 8th August, 1967 under section 10A of the Industrial Disputes Act, 1947.

BETWEEN

The management of Mercantile Bank Ltd., Delhi.

AND

Their workmen as represented by the Delhi State Bank Employees' Federation, Delhi.

APPEARANCES:

Representing the Management:

1. Mr. D. Macfarlane, Accountant, Mercantile Bank Ltd., New Delhi.
2. Mr. P. Mandal, Legal Adviser, Mercantile Bank Ltd., New Delhi.

Representing the Federation:

1. Mr. P. L. Syal, President, Delhi State Bank Employees' Federation, 710, Ballimaran, Delhi.
2. Shri R. B. L. Mathur, Secretary, Mercantile Bank Employees' Federation, Delhi.
3. Shri J. N. Saxena, Assistant Secretary, Mercantile Bank Employees' Federation, Delhi

AWARD

The Delhi State Bank Employees' Federation raised an industrial dispute over the payment of amount payable under the bank's circular dated 18th October 1960 to Shri Autar Krishan for passing Part I of the Indian Institute of Bankers' Examination held in April, 1966 before the Conciliation Officer, Delhi. Subsequently, the employers and workmen, agreed to refer the dispute for my arbitration under sub-section (I) of section 10A of Industrial Disputes Act, 1947 (14 of 1947) and accordingly, the Government of India, Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) issued an Order No. 51/57/67-LR-III dated the 25th August, 1967 giving necessary details of the agreement and the specific matter in dispute for my arbitration.

The specific issue framed for my determination is as under:—

“Whether honorarium of £50 payable under the Bank's circular dated 18th October 1960 to Shri Autar Krishan for passing Part I of the Indian Institute of Bankers' Examination held in April, 1966 should be converted into Rupees at the official rate of exchange prevailing upto 5th June 1966 or the rate prevailing from 6th June 1966”.

The President, Delhi State Bank Employees' Federation was requested to forward a written statement in regard to the specific matter in dispute in support of their stand to me on or before 25th September 1967 with a further request that a copy of the aforesaid statement be sent simultaneously to the Management of the Mercantile Bank. The Management of the Mercantile Bank in another letter were requested to forward their comments by 30th September, 1967 to me with a copy of their comments to the Federation. In my letter No. SKG/Arb-MBEU/67 dated the 16th September, 1967 I also intimated the parties that the arbitration proceedings will be held in my office at 11.00 a.m. on Wednesday, the 4th October, 1967. The Federation, however, requested for adjournment and requested for a copy of the letter, earlier addressed to them. The Management subsequently, requested for an adjournment as they had to refer the matter to their General Manager in India, headquartered in Calcutta for advice. Acceding to the request of the parties, the proceedings were fixed on the 23rd November, 1967 at 11.00 a.m. but again the parties jointly requested for postponement of the hearing until Wednesday, the 29th November, 1967. The parties were finally informed that they should appear positively on Wednesday, the 29th November, 1967, and it

would not be possible to grant any further adjournment in the matter. Accordingly, the parties appeared on the last scheduled date to present their cases before me.

During the proceedings, the arguments placed by the parties were briefly as under:—

The Delhi State Bank Employees' Federation in support of their stand among other things stated that:—

1. under its notice dated 18th October 1960 [copy enclosed and marked Annexure (A)], the Mercantile Bank Ltd., prescribed the honoraria, for passing Part I and Part II of CAIIB (Indian Institute of Bankers Examination) at the following rates:—

For passing Part I—The equivalent of £50.

For passing Part II—The equivalent of £100.

2. That Shri Autar Krishan, an employee of Merchantile Bank Ltd., New Delhi branch passed Part I of CAIIB examination and received the result sheet on 1st June 1966. He showed the said result sheet to the Accountant of the Bank and demanded payment of £50 or its payment at par rate in Indian Currency. The Accountant replied that the payment could only be made if Shri Autar Krishan produced the certificate for passing Part I of CAIIB examination.
3. That on 6th June 1966 the Indian rupee was devalued
4. That Shri Autar Krishan received the certificate for passing Part I of CAIIB on 8th June 1966 and produced the same to the Bank on the same day and requested for payment of £50 or payment at par rate in Indian Currency.
5. That prior to devaluation the par rate of £50 was Rs. 670 but after devaluation it became Rs. 1,050.
6. That the Bank asked Shri Autar Krishan to receive the pre-devaluation amount, i.e., Rs. 670 upon which Shri Autar Krishan told the management either to pay him £50 or to make payment at par rate, i.e., Rs. 1,050. The Bank refused to do the needful.
7. That the matter was taken up by the Union with the Assistant Labour Commissioner who could not succeed in bringing about a settlement, and the matter was thus agreed to be referred for arbitration.
8. That Shri Autar Krishan is entitled to £50 or payment at par rate i.e., Rs. 1,050 the rate applicable on the date the certificate was handed over to the Bank, for having passed Part I of CAIIB.

While basing their case on the points referred to above, the representative of the Federation also said that according to their own circular the management had a liability to pay the employee. The management themselves laid down a certain condition, which the workman fulfilled at the earliest opportunity and then demanded the equivalent of £50 as obtained on 8th June 1966. Since it was at the instance of the management, it is only right that the management should pay Shri Autar Krishan, £50 at the new rate and not what it would accrue prior to 6th June 1966. The representative of the Federation also said that the other employees who had similarly passed the Exam. were given the payment on the 1st of June itself without laying down any such condition and the union is not taking up their causes as the date of demand and acceptance by the bank was prior to 6th of June, 1966.

The management, in support of their stand stated as under:—

1. While the quantum of the honoraria for passing Part I and Part II of the CAIIB examination was mentioned in English pounds because the Bank is having its Head Office in the area where English pound is the ruling currency, it was actually intended that the honoraria to be paid should be Rs. 670 for the First Part and Rs. 1340 for the Second Part.

2. The Bank desires to add that for the purpose of benefit arising out of the passing of Part I and Part II of the CAIIB examinations the relevant date is the date of the result and that the same should be taken into account both for the purpose of granting the increment and/or paying special allowance for the same in terms of the Bipartite Settlement as also for paying its *ex-gratia* honoraria offered by the Bank.

3. The Bank wishes to submit that the devaluation of the Indian rupee which took place on 6th June, 1966, is neither relevant nor material for payment of the honoraria claimed by Shri Autar Krishan which became due to him on 1st June, 1966.

4. The Bank, however, desires to add that the date of the result of the CAIIB Examination being the material date both for the purpose of granting of increments/special allowance under the Bipartite Settlement and for payment of the *ex-gratia* honoraria offered by the Bank, Shri Autar Krishan's demands that he should be paid either £50 in English currency or Rs. 1,050 in Indian currency is untenable and unjustified.

5. They further stated that Shri Autar Krishan is entitled to only Rs. 670 as *ex-gratia* honorarium for passing Part I of the CAIIB Examination and the Bank is ready and willing to pay the same to him.

During the course of proceedings I had requested the parties to produce the mark sheet received by Shri Autar Krishan and also the certificate issued in favour of Shri Autar Krishan by the Indian Institute of Bankers regarding completion of his part I of the examination. A copy each of the aforesaid document is at annexures 'B' and 'C'. Shri Autar Krishan had produced only the mark sheet earlier and the management desired that he should provide further evidence to establish that he has completed Part I of the Associate examination of the Institute. Accordingly Shri Autar Krishan produced on 8th June, 1966 the certificate issued by the Institute and the management agreed to pay the honoraria equivalent of £50 for Part I.

Since Shri Autar Krishan could procure his certificate only on the 8th of June, 1966 and presented it to the management, on that day the Federation had demanded that the management should pay Shri Autar Krishan, rupees 1050, instead of the pre-devaluation amount that is Rs. 670. Apparently the Federation is laying too much stress on the date of production of evidence in support of the completion of Part I of the Associate Examination by Shri Autar Krishan and not the purpose or the fact for which the management is bound to pay honorarium, as per their notice issued on 18th October 1960. The Federation no doubt argued their case very well stressing the factor of liability created by a condition laid down by the management on 1st June, 1966 which was fulfilled by the employee on 8th June 1966 and also suggested that the management have not followed the practice of accepting the mark sheet produced by the employee as in the past. The management according to them, therefore, should pay the honorarium in terms of the value of pound as obtained on 8th June 1966 and not on 1st June, 1966.

The management, arguing in support of their case had rightly stated that the date of devaluation is neither material nor relevant in this case. It will be seen from the certificate issued by the Indian Institute of Bankers that Shri Autar Krishan having been examined by appropriate examiners and having been found by their duly qualified examiners, was declared to have completed Part I of the Associate Examination of that Institute on 30th May, 1966 and as such the amount due either in the form of increment and or honorarium accrued on the 30th of May, 1966 and thus the amount, namely, Rs. 670 I feel was quite appropriate.

In support of their case, the representative of the management quoted English Law defining conversion of foreign currency into English currency. He quoted from G. C. Cheshire's book on 'Private International Law' where it has dealt with such issues arising from conversion of foreign currency and stated that:

'there was formerly a controversy whether the rate of exchange prevailing at the date of the wrong or at the date of the judgment must be followed in making this conversion from foreign to English Currency. The date chosen may be of great importance to the parties in view of the violent fluctuations of the rate of exchange that not infrequently occur in the modern world. It is now settled that the relevant date is the date of the wrong.'

The representative of the management also quoted from Indian Law regarding Rate of Conversion. He referred to a case, namely, Abdul Rahaman, vs. M.P. Kesavan (AIR, 1958) (Kerala—Page-51), wherein the question of rate of conversion was discussed. It was argued that Indian Court cannot give judgment for the payment of an amount in foreign currency, and for the purpose of litigation in India, a debt expressed in a foreign currency must be converted into Indian Rupees with reference to the rate of exchange prevailing on the day when the debt

was payable. In this case, the amount was payable on the 30th of May, 1967 and it is only right and proper that the amount to be paid, should be Rs. 670 and not Rs. 1,050, as requested by the Federation.

It is difficult to agree with the claim of the Federation as the sanctity here is more to the date of completing the Part I of Associate Examination and not the date on which Shri Autar Krishan could produce sufficient evidence about his having done so. I, therefore, agree with the stand taken by the management. During the discussion, however, I was informed that in all five Officers completed the Part I/II of the Associate Examination on the 30th May, 1966 and except Shri Autar Krishan others were given increment/increments due to them, w.e.f. 1st May, 1966. Shri Autar Krishan was, it was understood given an increment from 1st of June, 1966. The management, however, agreed to give the increment to Shri Autar Krishan also from 1st May, 1966. I appreciate the gesture of the management which would also help to bring in certain amount of uniformity in the grant of increments to all their employees completing different parts on the same date last year.

Having, therefore, carefully considered the facts of the case and the evidence, documents and other materials placed before me by the parties and having considered, the argument during the hearing of the case on 29th November, 1967, I award as under:—

"The honorarium of £50 payable under the Bank circular dated the 18th October, 1960 to Shri Autar Krishan for passing Part I of the Indian Institute of Bankers Examination, held in April, 1966, should be converted into rupees at the official rate of exchange prevailing upto 5th June, 1966".

I take this opportunity to express my thanks to both the parties for their co-operation during the course of hearing.

(Sd.) S. K. GOKHALE,

Regional Labour Commissioner (C) and Arbitrator.

ANNEXURE 'A'

MERCANTILE BANK LIMITED CHANDNI CHOWK, P.B. NO. 1005, DELHI-6

NOTICE

INDIAN INSTITUTE OF BANKERS' EXAMINATIONS

We have been advised by Head Office that the scale of honorariums previously authorised to be paid to members of our staff has now been cancelled.

In its place, the following increased honorariums will be paid to all successful candidates:—

For passing Part I—the equivalent of £50.

For passing Part II—the equivalent of £100.

Candidates must in future pay the cost of their own books and tuition fees

The effective date for these new arrangements is the 14th October, 1960 and no retrospective claims can be considered.

(Sd.) F. A. FITZPATRICK, Agent.

Delhi:

18th October 1960.

ANNEXURE 'B'

THE INDIAN INSTITUTE OF BANKERS
STATE BANK OF INDIA BUILDING
SECOND FLOOR, APPOLO STREET
FORT, BOMBAY. Tele.No. 253320

Dated 30th May, 1966.

To

K-1438
Shri Autar Krishan,
Mercantile Bank Ltd.,
'E' Connaught Place,
New Delhi.

ASSOCIATE EXAMINATION, 1966

The Candidate is advised that the result of his Examination is as hereunder:—

PART-I

Practice and Law of Banking
Economics
English Composition
Book-keeping and Accounts
Commercial Geography

PASS

(F-A) indicates failure within 1/5th of the Pass Standard.

(E-B) indicates failure by more than 1/5th below the Pass Standard.

(Sd.) Secretary.

ANNEXURE 'C'

THE INDIAN INSTITUTE OF BANKERS
STATE BANK OF INDIA BUILDING
SECOND FLOOR, APOLO STREET
FORT, BOMBAY.

K-1438

MEMORANDUM

ASSOCIATE EXAMINATION

PART I

Be it known to all concerned that Shri Autar Krishan having been examined by appropriate Examiners and he having been found by them duly qualified in the subjects mentioned below, is declared to have now completed Part I of the Associate Examination of this Institute.

1. Practice and Law of Banking.
2. Economics.
3. English Composition.
4. Book-keeping and Accounts.
5. Commercial Geography.

(Sd.) Secretary.

Dated: 30th May, 1966.

[No. F. 51/57/07/LRIIL.]

New Delhi, the 13th December 1967

S.O. 4540.—In exercise of the powers conferred by Section 3 of the Commissions of Inquiry Act, 1952 (80 of 1952), the Central Government hereby makes the following amendment to the notification of the Government of India in the

Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 2286, dated the 4th July, 1967, namely :—

In the said Notification, in the second paragraph, for the words

“Within a period of six months from the date of the publication this Notification in the Official Gazette.”—

the words and figures

“before the First June, 1963”

shall be substituted.

[No. 17/10/67-LRIV.]

New Delhi, the 14th December 1967

S.O. 4541.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provisions of sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947) declared by the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation No. S.O. 1990, dated the 5th June, 1967, the banking industry carried on by a banking company as defined in clause (bb) of section 2 of the said Act, to be a public utility service for the purposes of the said Act, for a period of six months from the 29th June, 1967;

And whereas the Central Government is of the opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a further period of six months from the 29th December, 1967.

[No. F.1/106/67-LRI.]

S.O. 4542.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal Jabalpur in the industrial dispute between the employers in relation to the Punjab National Bank Limited, Daltonganj and their workmen which was received by the Central Government on the 11th December, 1967.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, JABALPUR

Dated November 30, 1967

PRESENT:

Shri G. C. Agarwala—Presiding Officer.

REF. CASE No. CGIT/LC(R) (114)/67 (JABALPUR TRIBUNAL)

REF. CASE No. 41 OF 1965 (JABALPUR TRIBUNAL)

PARTIES

Employers in relation to—

Punjab National Bank Limited, Daltonganj. (Bihar)

Versus

Their workmen, represented through The General Secretary, All India Punjab National Bank Employees Association.

APPEARANCES:

For the Employer—Shri A. Roy Chowdhry, Labour Officer, P.N. Bank Calcutta.

For workmen—Shri C. L. Bharatdwaj, General Secretary of All India Punjab National Bank Employees Association.

INDUSTRY: Bank

DISTR: Daltonganj (Bihar).

AWARD

By Notification No. 51(85)/64-LRIV dated 19th March, 1965, the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), Government of India, referred an industrial dispute, as stated in the schedule to the order of reference, to Central Government Industrial Tribunal, Dhanbad, from

where the case was transferred to this Tribunal by Notification No. 8/25/67-LRII dated 25th April 1967:

Matter of Dispute

Whether having regard to the duties performed during the period from 4th July, 1960, to the 31st August, 1964, Shri Raj Mani Dubey is entitled to be designated as Assistant Cashier and to the payment of clerical scale of pay and special allowance prescribed for Assistant Cashiers in the Award dated the 7th June, 1962 of the National Industrial Tribunal (Bank Disputes), Bombay published with the notification of the Government of India in the Ministry of Labour and Employment No. S.O. 2028, dated the 13th June, 1962? If not, to what other relief is the workman entitled?

2. Both parties filed their statements of claim before the Dhanbad Tribunal. On the first date of hearing which was 26th May 1967 at Allahabad the Bank filed a rejoinder and preliminary hearing was rendered. On the next date of hearing which was 3rd October 1967 at Allahabad, an application of the Union dated 11th February 1967 was considered for production of certain documents by the Bank. After hearing both sides the Bank was directed to file some of the papers and for others it was directed that the Bank shall make the records available for inspection to Union representative and a joint statement may be filed in respect of relevant matters so that it may not be necessary to produce the records in the case. Such a joint statement was prepared and filed on the next date and shall be referred as Ex. I. Evidence in the case then commenced on 30th October 1967 when workmen's four witnesses were examined. The evidence for the Bank was recorded on the following date and the Bank examined two witnesses. Arguments were thereafter heard. The party desired to submit a summary of their arguments in writing which they have done and are part of the record.

3. The workman concerned, Rajmani Dubey, was appointed as a Cash Peon on in the Daltonganj Branch of the Bank on 3rd November 1958 by means of an appointment letter (Ex. E/14) filed by the Bank and Ex. W/1 filed by the workman concerned. There is some difference between the two as in Ex. W/1 besides the salary of Rs. 34, it is stated that he would be paid Rs. 5 as special allowance and also dearness allowance, a fact which is not found entered in the Bank's copy of the appointment letter. The fact is, however, immaterial as admittedly he has been given the special allowance of Rs. 5 p.m. When he joined as a Cash Peon the Cash Department had a Head Cashier, Sri Harikesh Dubey (E.W.1) and an Assistant Cashier, Sri Ishwari Prasad (W.W.2). Sri Ishwari Prasad, the Assistant Cashier, was transferred to Jahanabad Branch on 4th July 1960 and it is an admitted position that no Assistant Cashier as such was appointed in his place by the Bank. The case for the workman is that he was required to render the duties of an Assistant Cashier after transfer of Sri Ishwari Prasad which he continued to render till June, 1964. He had been rendering all the duties which Sri Ishwari Prasad was doing and therefore became entitled to be promoted and to the remuneration of Assistant Cashier as prescribed by the Bank award commonly known as Shastry and Desai Award. On the other hand, the contention of the Bank is that Rajmani Dubey continued to work as Cash Peon and the Head Cashier alone discharged the functions of the Cash Deptt. including that of the Assistant Cashier. The sort controversy, therefore, is whether during the period 4th July, 1960 to 31st August, 1964 when there was no Assistant Cashier, Rajmani Dubey rendered the duties of the Assistant Cashier and if so, whether in addition to his duties as Cash Peon or wholly as Assistant Cashier. It may be mentioned that after 31st August, 1964 another Assistant Cashier was posted in the branch namely, Sri Nagendra Prasad (W.W.1). There is some controversy as to when Sri Nagendra Prasad actually started working as Assistant Cashier but we are not concerned with that inasmuch as the reference is restricted to the date of 31st August, 1964.

4. The duties of Cash Peon are enumerated in a Bank Circular dated 3rd January 1967 (copy Ex. E/4) which are as follows:—

Staff Departmental Circular No. 228

Duties of Cash Peons:

1. Presenting hundies and bills of all sorts to the parties.
2. Going to the Treasuries for getting the bills passed.
3. Presentation of documents.
- 4 Bundling and stitching of currency notes under direct supervision of cashiers.

5. Helping the cashiers in opening the cash and distributing tokens to the Ledger Keepers.
6. Sewing of parcels of currency notes under direct supervision of cashiers.
7. Assorting and sealing of payment vouchers under direct supervision of an officer.
8. Assisting in opening dak and arranging the same.

Besides the above, they are expected to do such type of other work, not of a clerical nature, as is entrusted to them by the Manager or Head of the Department.

As a Cash Peon, Rajmani Dubey, admittedly had been doing these duties. The duties and functions of an Assistant Cashier are nowhere stated either in any of the circulars of the Bank or in any Bank awards and have to be determined with the prevalent practice in the Bank. There is no doubt that after the transfer of Sri Ishwari Prasad, Rajmani Dubey was the only person who remained in the Cash Department to assist the Head Cashier and there is ample material to show that he had been rendering some of the jobs which do not strictly fall within the realm of duties of Cash Peon. It was admitted by the Bank that the clearance with the State Bank of India and the Bank of Bihar namely, deposits and withdrawals with these banks was rendered by Rajmani Dubey. These transactions ran into huge amounts. This obviously was not a job of a Cash Peon. Further, it is an admitted position in the joint inspection statement (Ex. I) that from June 17, 1960 the insured cash parcels to post office were carried by Rajmani Dubey and he signed on these insured parcel registers. This is also not a part of the duty of a Cash Peon. It is a further admitted fact that in the absence of Head Cashier whether on leave or otherwise Rajmani Dubey worked for him in the Cash Department as a Cashier. This runs into several days and are enumerated in the joint inspection statement (Ex. I). He has been paid special allowance for having worked as Head Cashier. A peon is not ordinarily allowed to work as a Head Cashier unless he has been trusted and tried as Asstt. Cashier. The Bank actually treated him as an extra cashier in some of their communications to the State Bank. Ex. E/1, E/2, and E/3 are letters dated 9th November 1960, 11th November 1960 and 22nd May 1962 in which the Bank while addressing these letters to the Agent, State Bank of India, for safe custody receipt or for exchange of notes which in Ex. E/3, is to the tune of Rs. 30,000, it was requested that the Cashier, Sri Rajmani Dubey, be issued the same. Not only this, the Bank Manager, Shri J. L. Khattar (E.W.2) admitted that he addressed a communication to the Head Office (Ex. W/4) in which it was stated that the Cash Department was managed single handed by the Head Cashier, Shi H. K. Dubey, with the help of a Cash Peon and the Head Cashier entrusted the job of Asstt. Cashier to the Cash Peon, Rajmani Dubey. Sri Khattar, however, did not admit the date which is recorded as 1st August 1967, but the fact of sending the letter was admitted by him. As a matter of fact, a special allowance for doing extra job of Asstt. Cashier was allowed to Rajmani Dubey on the recommendation of Sri Khattar himself as is manifest by his letter dated 12th December 1963 (Ex. E/19) and the Head Office letters, Ex. E/20 & E/21. Rajmani Dubey had since been receiving this extra allowance which was raised from Rs. 5 to Rs. 10. The whole controversy, however, centres round the fact whether Rajmani Dubey in the normal course worked at the cash counter also for receiving and disbursing of cash as Asstt. Cashier. The Bank has vehemently denied that in the presence of the Head Cashier, Sri H. K. Dubey, cash transactions of the Bank were rendered by Rajmani Dubey and the stand appears to be correct in this respect. Except for those days when the Head Cashier was on leave, it does not appear that Rajmani Dubey normally attended at the counter for receipt or disbursement of cash. The joint inspection statement (Ex. I) filed by the parties would show that Cashier Receipts & Payment Log Books were maintained and entries made by the Head Cashier alone. The Head Cashier signed on all the vouchers during the entire period 1st July 1960 to 31st May 1965 except for five dates which are mentioned at page of the joint inspection note and are 3rd January 1963, 14th November 1963, 11th January 1964, 20th January 1964 and 21st January 1964. On these dates also most of the vouchers were signed by the Head Cashier and a few alone were signed by Rajmani Dubey. For his working at the cash counter for reception of cash reliance is placed on the fact that denomination and number of notes are found entered on certain receipt vouchers between the period 1st May 1964 to 21st November 1964 which are detailed at pages 2, 3 and 4 of the joint inspection note (Ex. I). Details of denomination of notes and number are not stated in vouchers on other dates except some of those mentioned in the joint inspection note. Head Cashier made no such entries and Rajmani Dubey also did not endorse the denomination on

all the vouchers signed by him as cashier. The Bank's representative appended a note which has been marked as Ex. E/16 and the grounds stated therein raised a tremendous amount of suspicion in this regard. The first noticeable feature is that when Rajmani Dubey himself worked as Head Cashier independently he did not make such endorsements of denomination as mentioned in paragraph 2 of Ex. E/16. Sri Ishwari Prasad (W.W.2) admitted that so long he was Asstt. Cashier, he did not enter the number and denomination of notes on cash vouchers. Sri Nageshwar Prasad (W.W.1) also admitted that there was no practice of such endorsement before he took over. The Head Cashier, Sri H. K. Dubey (E.W.2) also made no such endorsements. It is curious to find why Rajmani Dubey made these endorsements and that too only on some of the cash receipt vouchers and not all. The dates during which these endorsements have been made on some of the vouchers are confined to the period from May, 1964 onwards; obviously when the controversy had arisen and the claim of the workman, Rajmani Dubey, had been taken up by the Union. This interpolation was possible because payment vouchers alone were kept in the Strong Room and receipt vouchers after they were bundled were kept with the Accountant. Rajmani Dubey was confronted with some of the entries and he could not give a plausible explanation for the same. He was questioned by way of example with respect to two vouchers, Ex. E/5 and E. 5/A, through which a sum of Rs. 1,652 was received. He had received this amount on 12th May, 1964 for issue of one Bank draft of Rs. 650 and another draft of Rs. 1,000 with bank charges of Re. 1 for each draft. The party tendering the notes had given the details on the back of the receipt voucher No. 9 and Rajmani Dubey had initialled the same on the right side of the total amount of Rs. 1,652. There was no occasion for him to make further endorsement of Rs. 1,001 on Ex. E/5 when the denomination had been given by the party himself on Ex. E. 5/A. He was asked to explain this but he gave no reply. In the note submitted by Sri Khattar (Ex. E. 16) he has illustrated such incongruous conduct in paragraph 5. It is evident that after the controversy had arisen and demand made, Rajmani Dubey managed to lay his hands on some of the bundles of receipt vouchers and in order to create evidence that he received cash at the counter he contrived to make these entries about the number and denominations of the notes tendered with each vouchers and which significantly are not uniformly recorded. A glaring proof of the fact is that on 30th May, 1964 he was on leave as is proved by his leave application Ex. E/13. Curiously, however, even on this date also entries are found of the number and denomination of the notes on the back of the cash vouchers. He made a vain attempt to explain although he had applied for leave to join the marriage of one of his relations, on the insistence of the Manager, he continued to work and left the Bank only one hour early from the closing time. An explanation of this nature can hardly carry conviction. Another circumstance on which reliance was placed was the production of a number of rough slips (Ex. W/2) typed copies of which are Ex. W. 2/A showing that he used to maintain record of cash transactions. These also commenced from 19th October, 1964 onwards and these rough loose chits obviously were managed and kept by him to bolster up proof. No reliance can be placed on this material. In this connection, it was stated that there was a shortage once of Rs. 160 and he had to make up the deficiency. Had it been a fact, the point should have been specifically stated in the statement of claim. It was introduced for the first time in evidence. Both the Head Cashier, Sri H. K. Dubey, and the Manager, Sri Khattar, denied the fact. From the consideration of these facts, it is abundantly clear that normally he was not working at the counter for the reception and disbursement of cash during the period. Rest of the duties of an Assistant Cashier were discharged by him in addition to his own duties as a Cash Peon and for which the Bank remunerated him with an extra allowance of Rs. 10. Since, however, he had rendered all other duties of Asstt. Cashier recompense of an extra allowance is a poor reward for his doing the double duties of a Cash Peon and an Asstt. Cashier. He should have been paid officiating allowance in accordance with paragraph 178 of the Shastry Award as modified by the L.A.T., so long that award was applicable and thereafter as directed in paragraph 6.56 of the Desai Award.

Decision

It is held that during the period under reference Rajmani Dubey besides working as a Cash Peon worked mostly as an Asstt. Cashier also. After making necessary adjustment of the special allowance paid to him, it is directed that the Bank shall pay him the officiating allowance in accordance with the Desai Award as contained in paragraph 6.56 for the period since when the Award became enforceable and for the prior period in accordance with the paragraph 178 of the Shastry Award as modified by the L.A.T. He is not entitled to be designated as an Asstt. Cashier, nor is he entitled to any special allowance of Asstt. Cashier

there being no Asstt. Cashier above the level of routine clerks in the Punjab National Bank so as to attract the relevant paragraph 164(B) 5 and 6 of the Shastri Award and paragraphs 5.282(9) and 5.282(10) of the Desai Award. This officiating allowance shall be payable to him for the period under reference 4th July, 1960 to 31st August, 1964. No order for costs.

(Sd.) G. C. AGARWAL,

Presiding Officer.

30-11-1967

[No. F. 51(85)/64-LRIV]

S.O. 4543.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to Messrs B. Patnaik Mines (Private) Limited, Barbil and their workmen, which was received by the Central Government on the 12th December, 1967.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

REFERENCE NO. 122 OF 1966

PARTIES:

Employers in relation to Messrs B. Patnaik Mines (Private) Limited,
AND

Their workmen.

PRESENT:

Shri S. K. Sen—Presiding Officer.

APPEARANCES:

On behalf of Employers—Shri D. Narsingh, Advocate.

On behalf of Workmen—Absent

STATE: Orissa

INDUSTRY: Mining

AWARD

By Order No. 37/52/65-LRI dated 1st February 1966, the Central Government referred for adjudication an industrial dispute between the employers in relation to M/s. B. Patnaik Mines (Private) Limited, Barbil and their workmen in respect of the matters mentioned in the following schedule:

"1. Whether the recruitment of workmen through the Coalfield Recruiting Organisation/Gorakhpur Labour Organisation, by the management of Messrs B. Patnaik Mines (Private) Limited; Post Office Barbil, Dist. Keonjhar, for employment in their iron and manganese mines with effect from the 22nd November, 1965 and its further continuance are legal and justified?

2. If not, what should be the position of the workmen so recruited *vis-a-vis* the workmen employed in these mines and retrenched by the ex-raising contractors M/s. Girish Chandra and Brothers and Manmohan Singh?"

2. At the instance of the Keonjhar Mines & Forest Workers union, the workmen employed departmentally and under raising contractors of Messrs B. Patnaik Mines (Private) Limited went on strike in the different mines of the company from various dates in August 1964; workmen at one mine beginning the strike from 10th August 1964, at another mines from 16th August 1964 and at another from 20th August 1964. There were conciliation proceedings before the Conciliation Officer, Central, Jharsaguda, and through his efforts a settlement was made between the management and the union on 10th September 1964 and the terms were embodied in a memorandum of settlement dated 10th September 1964 signed on behalf of the union by the General Secretary, Shri H. Behra and on behalf of the company, by the Secretary Shri N. Venkataraman. There were several terms in the agreement but in this case we are only concerned with Paragraph 12 of that memorandum of settlement, by which it was agreed that the management and union would jointly apply by 29th September 1964 to Shri D. C. Mohanty, President of Keonjhar Mines & Forest Workers Union to decide the dispute regarding the employment of workmen recruited through Coalfields Recruiting Organisation or Gorakhpur Labour Department in the Iron Ore and Manganese Mines of Messrs B. Patnaik Mines (Private) Limited. The joint application was made accordingly to Shri D. C.

Mohanty, and Shri Mohanty after hearing the parties made an award on 15th January 1965. Shri Mohanty decided that employment of workmen recruited through Coalfields Recruiting Organisation or Gorakhpur Labour Department should not be continued and that the employment of workmen recruited through these organisations should be discontinued by 15th March 1965. The management accepted the award for the time being and discontinued the employment of the labour recruited through the C.R.O. and the G.L.D. But on 25th March 1965 the management gave notice of their intention to terminate the agreement recorded in the memorandum of settlement dated 10th September 1964 on the expiry of two months from the date of the notice. From 22nd November, 1965 the management started recruiting labour through the Coalfields Recruiting Organisation; 54 Gorakhpur labourers were recruited in the month of November, 1965 and ultimately the number of such labourers rose to 99. The union made a complaint to the A.L.C. Central, Jharsaguda against the recruitment of the Gorakhpur labour, by a letter dated 26th November 1965. No agreed settlement could be arrived at during the conciliation proceedings and accordingly the matter has been referred to adjudication.

3. According to the written statement of the union, the recruitment of workmen through C.R.O. and Gorakhpur Labour Department is illegal because it is in contravention of the award of Shri D. C. Mohanty which the management agreed to accept as final and binding, and as the recruitment was made without notifying the vacancies to the appropriate employment exchange as required by the Employment Exchange (Compulsory Notification of Vacancies) Act, 1959. Further, according to the union, the management had by a memorandum of settlement dated 23rd September, 1965 agreed to offer employment to the workmen retrenched by ex-raising contractors, Messrs Girish Chandra & Bros. and Shri Manmohan Singh, and without offering employment to all such retrenched workmen the management recruited C.R.O. labour.

4. The management in their written statement raised a preliminary objection that the mode of recruitment by the employers could not form the subject matter of an industrial dispute, as the management was entitled to recruit such workmen as they wanted by any mode of recruitment. Without prejudice to the preliminary objection, the management took the stand that the recruitment of Gorakhpur Labour through the C.R.O. made from 22nd November, 1965 could not be considered illegal because the award of Shri D. C. Mohanty formed a part of the agreement dated 10th September, 1964, and the management had after the expiry of more than 6 months from the date of the agreement given notice of termination of the agreement after the expiry of two months from the date of the notice, and so the agreement including the award no longer had effect after 25th May, 1965, the notice of termination have been given on 25th March 1965. Accordingly, the management claimed that they were entitled to recruit Gorakhpur Labour after 25th May, 1965, but they actually did so from 22nd November, 1965. As regards failure to notify the vacancies to the employment exchange officer of the locality, the management stated that after the award by Shri D. C. Mohanty the management approached the Officer-in-charge of the Employment Exchange at Joda for supply of piece-rated workmen for the mining department of the company, but the officer-in-charge of the Employment Exchange expressed his inability to do so and therefore the company did not consider it necessary to notify the vacancies which they filled up from 22nd November, 1965. As regards giving employment to the workmen retrenched by the ex-raising contractors, Messrs Girish Chandra & Bros. and Manmohan Singh, the management stated that they had offered employment to these retrenched workmen either directly under the company or under some of their existing raising contractors. But some had not accepted the offer of employment and the management was not responsible for those workmen. The management claimed to have complied with the terms of agreement contained in the Memorandum dated 23rd September, 1965 and stated that the recruitment of C.R.O. labour was made only after no more workmen out of the retrenched labourers were available for employment.

5. At the hearing the union has not been represented. On three previous dates fixed for hearing, the hearing was adjourned on the prayer of the General Secretary of the Union. The General Secretary again sent a telegram asking for adjournment on the 4th date of hearing fixed, namely 6th December, 1967 and Shri R. N. Banerjee, Advocate, appeared with a copy of the telegram and verbally asked for adjournment. Under Rule 10B(5) of the Central Rules under the Industrial Disputes Act, the tribunal is not ordinarily to grant more than three adjournments in all at the instance of one of the parties to the dispute unless there are very special circumstances. In the present case I was not satisfied that there was sufficient reason for granting an adjournment again and when the prayer for adjournment was refused, Shri Banerjee withdrew from the case and so the case was taken up *ex-parte*.

6. I do not think that there is any substance in the preliminary objection urged by Shri Narsingh. Under *laissez faire* economy, the Management had absolute freedom both as to appointment and dismissal of workmen, but at present with adoption by the State of Ideas of Social Welfare, this freedom has been considerably restricted; dismissal by the employers has become subject to challenge by trade unions and may undoubtedly be adjudicated by tribunals; and even in the matter of employment, if a trade union consisting of a number of employees raises objection to the recruitment of a class of persons, that also becomes the subject of an industrial dispute. The mode of recruitment may also form the subject of an industrial dispute. It is for the appropriate statutory authority or tribunal to decide how far there is any rational ground of objection by the trade union, but there is no doubt that such an industrial dispute can be raised.

7. The management examined one witness, namely the Labour Officer of the company, Shri S. K. Mohanty, and has proved copies of the relevant documents. The Industrial Disputes Act contains provisions relating to awards by arbitrators; for the award of an arbitrator have the legal binding force for one year as provided by Section 19 of the Act, it is necessary that the agreement to refer a dispute to arbitration be forwarded to the appropriate Government whereupon the Government will publish the arbitration agreement in the Official Gazette, vide Section 10-A clause (c) of the Act, and that the award of the arbitrator shall also be sent to the appropriate Government for publication under Section 17 of the Act. The award become enforceable only after the publication of the same in the Gazette vide Section 17-A of the Act. In the present case although there was an agreement to refer the dispute as to employment of Gorakhpur labour to the arbitration of Shri D. C. Mohanty, it was not an arbitration within the meaning of the Industrial Disputes Act, because the agreement to refer the dispute to the arbitrator was not sent to the appropriate Government for publication; nor was the award made by the arbitrator Shri D. C. Mohanty sent to the Government for publication. Accordingly the award which was made by Shri D. C. Mohanty has no more force than the agreement made before the Conciliation Officer from which it arose. That agreement of which a copy is Ext. A was made on 10th September, 1964. A settlement made by agreement in the course of conciliation proceedings is binding on the parties for the period of 6 months except where the period for which the settlement shall be in force is embodied in the terms of agreement itself; and after such period, continues to be binding until the expiry of 2 months from the date on which a notice in writing of an intention to terminate the settlement is given by one of the parties to the other party. The agreement, Ext. A, does not mention any period for which the agreement would be in force. It is no doubt mentioned in clause (ii) of Paragraph 12 that the decision of Shri D. C. Mohanty would be final and binding; but this could only mean that neither party would appeal against that decision so long as the agreement was in force and the decision of the arbitrator would be binding so long as the agreement was in force. Therefore the normal life of the agreement would be 6 months and thereafter for 2 months after the service of notice of termination of the agreement. A copy of the notice of termination is Ext. C. It was given on 25th March, 1965 and therefore from 25th May, 1965 the agreement was no longer in force, and it must be held that the award of arbitrator also become ineffective from that date. There is therefore no substance in the plea of the union that the recruitment of Gorakhpur labour was illegal because it contravened the award by Shri D. C. Mohanty.

8. The management also produced Ext. D1, a letter dated 20th January, 1965 from the Officer-in-Charge of the Employment Exchange Office at Joda in Keonjhar district. The Officer stated that the local labourers registered at the Employment exchange were not willing to work as piece-rated workmen except in the TISCO mines and therefore the office was not in a position to supply mining labourers to Messrs. B. Patnalk Mines (Private) Limited. The management has not given evidence to show that in the beginning of November, 1965 before the CRO labourers were recruited, a notice of the vacancies was given to the Office of the Employment Exchange at Joda, and it must be presumed that no such notice was given. But in view of the letter, Ext. D1, which they had received after trying to obtain labour from the Employment Exchange shortly after the award by Shri D. C. Mohanty, the management did not consider further notification of the vacancies to the Employment Exchange as necessary. In any case, employment of labourers without notification of the vacancies might make the employers liable to a punishment prescribed by the Employment Exchange (Compulsory Notification of Vacancies) Act, 1959, but it would not make the appointments illegal. In this connection reference may be made to a decision of the Madras High Court, 1967 II L.J. 243 (Consumption Club Vs. District Employment Officer, Madras) where it was held that notwithstanding the obligation to report the

vacancies, the Act does not impose the further obligation upon the employer to recruit any person through the Employment Exchange to fill a vacancy reported, and that the Act was intended to serve a statistical need to assess future policy in connection with the imparting of training to political employees. I, therefore hold that the employment of the Gorakhpur Labour through C.R.O. was not illegal because of the failure to notify the vacancies to the local Employment Exchange Office, though I may add a rider that in future the management would be well advised to comply strictly with the provisions of the Employment Exchange (Compulsory Notification of Vacancies) Act, 1959.

9. In view of the finding on the first issue referred for adjudication, the second issue does not arise in view of the terms in which it is framed; because the second issue is to be considered only if the recruitment of workmen through C.R.O. or G.L.O. is found to be not legal and not justified. The management has however given evidence to show that the agreement of 23rd September, 1965 vide the memorandum of settlement, Ext. E, has been fully implemented by the company. Under Paragraph 1 of the terms of settlement, the management agreed that they should prepare a list of all the workmen who were previously working under Messrs. Girish Chandra & Bros. and Shri Manmohan Singh, ex-raising contractors and who applied to the management for fresh employment by 30th September, 1965, and that the management would provide fresh employment to 10 senior most workmen of the list directly under them in one of their iron ore mines and the next 20 workmen included in the list under their raising contractors by 15th October, 1965 and that future vacancies directly under the management or under any of the raising contractors would be filled from among the remaining workmen included in the list who offered themselves for employment on being given intimation. Shri S. K. Mohanty who deposed for the management stated that 102 applications were received from the retrenched workmen of the ex-raising contractors, and a list of the 102 persons was prepared and a copy thereof was also sent to the General Secretary of the Union, Ext. F is the copy of the letter sent to the union together with the list of 102 persons. Shri Mohanty also stated that employment was given to 75 of these men, 22 being employed directly under the company and 53 under existing raising contractors and the remaining 27 were offered employment but did not turn up for employment. Ext. G is a statement prepared by Shri Mohanty showing the dates when these men were offered employment and showing also whether they were employed directly under the company or under the raising contractors. The statement shows that before 15th October, 1965, the date mentioned in Paragraph 1 of the memorandum of settlement, Ext. F, direct employment under the company was offered to more than 10 of the seniormost men. It was on 13th October, 1965 offered to the first 20 persons in the list. At the same time on 13th October, 1965 letters of employment under the raising contractors were issued to the next 25 persons on the list. Other persons mentioned in the list were employed subsequently as vacancies arose and that they were all offered employment before 22nd November, 1965, which is the date from which CRO Labour was recruited. Thus the recruitment of CRO Labour was not in contravention of the agreement dated 23rd September, 1965 and not to the prejudice of the retrenched workmen of the two ex-raising contractors.

10. My award therefore is as follows:—

1. Recruitment of workmen through Coalfield Recruiting Organisation/Gorakhpur Labour Organisation by the management of Messrs. B. Patnaik Mines (Private) Limited from 22nd November, 1965 was legal and justified.

2. In view of the finding on the first issue, this issue does not arise; at the same time my finding is that the workmen previously employed in the mines who were retrenched by ex-raising contractors, Messrs. Girish Chandra & Bros. and Shri Manmohan Singh were offered employment by the management in terms of the memorandum of settlement dated 23rd September, 1965 and the recruitment through C.R.O. or G.L.O. was not made to the prejudice of these workmen.

(Sd.) S. K. SEN,

Presiding Officer.

Dated, 6th December, 1967.

[No. 37/52/65-LRI.]

S.O. 4544—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to Paoni Manganesse Mines of R. S. Seth Gopikishan Agrawal, Mining

Proprietors, Tumsar and their workmen, which was received by the Central Government on the 12th December, 1967.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, JABALPUR.

Dated November 30, 1967.

PRESENT:

Sri G. C. Agarwala.—Presiding Officer.

REF. CASE No. CGIT/LC(R) (114) OF 1947.

PARTIES:

Employers in relation to Paonia Manganese Mines of R. S. Seth Gopikishan Agrawal Mining Proprietors, Tumsar.

Vs.

Their Workmen through Shri K. Nutneshwar, Secretary, Samyukta Khadan Mazdoor Sangh, P.O. Rajnandgaon.

APPEARANCES:

For employers.—Shri B. R. Runbhe, Authorised representative.

For workmen.—S/Sri P. K. Thakur, Vice President and Sri K. Nutneshwar, Secretary of the Union.

DISTRICT: Balabhat. (M.P.)

INDUSTRY: Manganese Mine.

AWARD

By Notification No. 35/26/66-LRI dated 5th June, 1967, the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), referred the following matters of dispute, as stated in the schedule to the order of reference, for adjudication to this Tribunal:

Matters of Dispute

- (a) Whether the demand of the workers of Poania Manganese Mines P.O. Tirodi Teh. Waraseoni, Distt. Balaghat (M.P.) of M/s. R. S. Seth Gopikishan Agrawal Tumsar for increase of wages is justified? If so, to what relief are they entitled and from which date?
- (b) Whether the demand of the workers of Paonia Manganese Mines P.O. Tirodi Teh. Waraseoni Distt. Balaghat (M.P.) of M/s. R. S. Seth Gopikishan Agrawal, Tumsar for payment of bonus for the year 1965 is justified? If so, to what relief are they entitled?

After issue of notices, the Union, Samyukta Khadan Mazdoor Sangh, P.O. Rajnandgaon, filed the statement of claim. No statement of claim was filed by the employers and proceedings were recorded *ex parte* on 19th September, 1967. On the next date of hearing which was 24th October, 1967, the Union applied for time to compromise the dispute and on this date which was the adjourned date for hearing, compromise settlement has been filed which an annexure to this award. From the terms of the compromise settlement, it would appear that the management has agreed to increase the wages of the workers as stated in paragraph 1 of the settlement and have further paid Bonus to the entitled workers in accordance with the provisions of the Bonus Act. The issues under reference are decided in terms of the compromise settlement which shall be effective from the date of this award.

Sd./- G. C. AGARWALA,
Presiding Officer,
30-11-1967.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT AT JABALPUR.

REFERENCE No. CGIT/LC(R) 114/67

Employers in Relation to the Paonia Mines District Balaghat of M/s. R. S. Seth Gopikishan Agrawal, Mines Proprietor, Tumsar.

AND

Their Workmen of Paonia Mine.

For the Employers.—Shri S. K. Shrivastava, Agent of R. S. Seth Gopikishan Agrawal, Tumsar.

For the Workmen.—Shri K. Nutneshwar, Secretary, Samyukta Khadan Mazdoor Sangh, Tirodi (M.P.).

Both the Parties do hereby agree:

1. A To pay Rs. 2.10 per day for surface piece rated workers employed on Bed ore mining;
- B To pay Rs. 1.95 per day for surface piece rated workers employed on Float ore mining.
- C Minimum daily wage for adults engaged on surface (other than actual Mining) shall be Rs. 1.75 per day for Male and Rs. 1.60 for female.

It is also agreed that all the wages of the different categories have to be averaged every four weeks and if the average of such four weeks is not equivalent to the wage mentioned in the category mentioned above, then the employer shall make the difference good to the employees.

2. The Bonus for the year 1965 (nineteen sixtyfive) has been paid to the entitled workers at Paonia mine in accordance with Bonus Act 1965.

Both parties have agreed that this Settlement shall come into force from the date of the consented award given by the Tribunal and not with retrospective effect. The Parties pray that an award be made in the above terms in this reference.

Dated at Tumsar the 20th day of November 1967.

For the Employers:

Sd./- S. K. SHRIVASTAVA,

Agent,

Sd./- R. S. SETH GOPIKISHAN, AGRAWAL.
Tumsar.

For the Workmen of Paonia Mines:

Sd./- K. NUTNESHWAR,

Secretary,

Samyukta Khadan Mazdoor
Sangh, Tirodi.

Witnesses:—

1. Sd./- T. R. SINGH.
2. Sd./- D P AGNIHOTRI,

PART OF AWARD.

Sd./- G. C. AGARWALA,

Presiding Officer,

30-11-1967.

[No. 35/26/66-LRI.]

S.O. 4545.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Industrial Tribunal Bombay in the Industrial dispute between the employers in relation to Messrs Dharsi Moolji, Bombay and their workmen which was received by the Central Government on 11th December, 1967.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, BOMBAY.

REFERENCE No. CGIT-6 of 1967.

PARTIES:

Employers in relation to Messrs. Dharsi Moolji, Bombay.

AND

their workmen.

PRESENT:

Shri A. T. Zambre.—Presiding Officer.

APPEARANCES:

For the employers.—Shri Y. H. Rane, Manager and Shri K. S. Shah, Accountant, Dharsi Moolji, Bombay.

For the workmen.—Shri H. K. Sowani, Advocate with Shri I. S. Sawant, Assistant Secretary, Transport and Dock Workers' Union, Bombay.

STATE: Maharashtra.

INDUSTRY: Ports and Dock.

*Dated at Bombay the 6th day of December 1967.***AWARD PART I.**

The Government of India, Ministry of Labour and Employment, by Order No. 28(5)/67-L.R.III dated 27th March, 1967, have referred to this Tribunal the industrial dispute between the employers in relation to Messrs. Dharsi Moolji, Bombay, and their workmen represented by the Transport and Dock Workers' Union, Bombay, in respect of ten demands as specified in the schedule attached to the order of reference and sought the finding of this Tribunal as to whether the demands put forth by the workmen were justified. Demand No. 9 of this reference is in the following terms:—

SCHEDULE

(9) "Each employee should be paid an amount of six months wages as Bonus for the year 1964-65 and 1965-66"

2. Notices under Rule 10B(1) of the Industrial Disputes (Central) Rules, 1957, were sent to the parties and the union filed its written statement. The employers have not put forth their objections but the representatives of both the parties have in the meantime negotiated and settled demand No. 9 stated above.

3. Both the parties have produced the document of the terms of settlement which is marked annexure "A". This memorandum of settlement has been signed by the Secretary of the Transport and Dock Workers' Union on behalf of the workmen and the Manager and Accountant on behalf of the employers. According to the terms of settlement the employers have agreed to pay to all the categories of their workmen bonus equivalent to 4 per cent of the total wages earned by each of them during the years 1964-65 and 1965-66. This amount is to be paid on or before the 5th December, 1967, subject to the conditions applicable under the Payment of Bonus Act, 1965. The company has also agreed to pay a further sum of Rs. 1,000 in addition to the abovementioned bonus for disbursement among the employers. I find the terms of settlement fair and reasonable and accordingly I pass an award Part I in terms of annexure "A" which shall form part of this award and will dispose of demand No. 9 in the schedule.

No order as to costs.

Sd./- A. T. ZAMBRE.

Presiding Officer,

Central Government Industrial Tribunal,
Bombay.

ANNEXURE 'A'

BEFORE SHRI A. T. ZAMBRE, PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, BOMBAY

REFERENCE No. CGIT/6 of 1967.

BETWEEN:

M/s. Dharsi Moolji

AND

Their Workmen,

In the matter of workmen's demand relating to Provident Fund etc.

MAY IT PLEASE THE HONOURABLE TRIBUNAL,

After the above reference was made to this Honourable Tribunal, the Transport and Dock Workers' Union, representing the employees of M/s. Dharsi Moolji, Bombay, discussed the demands relating to bonus for the years 1964-65 and 1965-66 with the representatives of the said company and as a result of the said negotiations the parties have reached a settlement as under:

Terms of Settlement

1. The employer firm namely; M/s. Dharsi Moolji agrees to pay to all categories of their workmen including Mathadi workers bonus equivalent to 4 per cent of the total wages earned by each of them during the years 1964-65 and 1965-66 on or before 5th of December, 1967.

2. The above payment will be made subject to the conditions applicable to such payment under the Payment of Bonus Act, 1965.

3. The firm also agrees to pay a lump sum of Rs. 1,000 (Rupees one thousand only) in addition to the abovementioned bonus for disbursement amongst the concerned employees in consultation with the Transport and Dock Workers' Union, Bombay.

In view of the above settlement the parties pray that the Honourable Tribunal may be pleased to make its Award in terms thereof.

Bombay:

Dated 30th November, 1967.

Sd./- Illegible,
Secretary,
Transport and Dock Workers' Union, Bombay.

Sd./- Illegible,
Manager,
for M/s. Dharsi Moolji, Bombay.
K. S. SHAIL

Accountant,
for M/s. Dharsi Moolji, Bombay
[No. 28(5)/67-LRIII.]

New Delhi, the 16th December 1967

S.O. 4546.—Whereas a vacancy has occurred in the office of the Presiding Officer of the Labour Court, Madras, constituted by the notification of the Government of India in the late Ministry of Labour and Employment No. S.O. 461, dated the 5th February, 1963;

Now, therefore, in pursuance of the provisions of section 8 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby appoints Shri S. Rangarajan as the Presiding Officer of the said Labour Court.

[No. F. 1/109/67-LRI.]

ORDER

New Delhi, the 15th December 1967

S.O. 4547.—Whereas the employers in relation to Messrs. K. C. Daga, Shri Wazir Shah, Faiz Mohammed, Fazal Shah and Champalal, Contractors of Messrs. Bikaner Gypsums Limited, Bikaner and their workmen represented by the Gypsum Mine Workers Union, Jamsar have jointly applied to the Central Government for reference to a Tribunal of an industrial dispute that exists between them in respect of the matters set forth in the said application and reproduced in the Schedule hereto annexed;

And whereas the Central Government is satisfied that the said Gypsum Mine Workers Union represents a majority of the workmen;

Now, therefore, in exercise of the powers conferred by section 7A and sub-section (2) of section 10 of the Industrial Disputes Act 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal of which Shri Jawan Singh Ranawat shall be the Presiding Officer with Headquarters at Jaipur and refers the said dispute for adjudication to the said Tribunal.

SCHEDULE

1. Whether any relief is due to the contractor's leading labourers as per demand No. 1 of settlement dated the 26th and 27th February, 1966 in view of the interim relief already granted with effect from 1st February 1966 and as per Hardeo Joshi Award with effect from 1st May, 1966.
2. Whether the strike by the leading labourers with effect from 6th October, 1967 was legal and justified and if so, whether they are justified to receive any compensation for the strike period.

[No. 24/33/67-LRI.]

S. S. SAHASRANAMAN, Under Secy.

(Department of Labour and Employment)

New Delhi, the 11th December 1967

S.O. 4548.—Whereas the Central Government was satisfied that the Mariajesu Match Industries was situated in Kadapanakunnu area which was a sparse area (that is, an area whose insurable population was less than 500) in the district of Trivandrum in the State of Kerala.

And, whereas by virtue of its location in a sparse area, the aforesaid factory was granted exemption from the payment of the employer's special contribution under section 73-F of the Employees' State Insurance Act, 1948 (34 of 1948) until enforcement of the provisions of Chapter V of the Act in that area by the Central Government in the late Ministry of Labour and Employment Notification No. F.6(7)/62-HI, dated the 25th May, 1964;

And, whereas the Central Government is satisfied that the insurable population of the Kadapanakunnu area in the district of Trivandrum in the State of Kerala has now exceeded 500, and it is no longer a sparse area;

Now, therefore, in exercise of the powers conferred by section 73-F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following further amendment in the said notification, namely:—

In the Schedule to the said notification, in the entries relating to serial No. 3, the entry "Kodapanakunnu" in column 3 and the entry relating thereto in column 4 shall be omitted.

[No. F. 6/22/67-HI.]

S.O. 4549.—Whereas the Central Government was satisfied that 1. Patel Gordhanbhai Motibhai, Jorda Factory. 2. Dahyabhai Ishwarbhai Patel, Jorda Factory. 3. Geeta Iron and Brass Works. 4. Dipee Engineering Corporation, were situated in Bajwa area which was a sparse area (that is, an area whose insurable population was less than 500) in the district of Baroda in the State of Gujarat.

And, whereas by virtue of their location in a sparse area, the aforesaid factories were granted exemption from the payment of the employer's special contribution under section 73F of the Employees' State Insurance Act, 1948 (34 of 1948) until enforcement of the provisions of Chapter V of the Act in that area by the Central Government through the notification of the Government of India in the late Ministry of Labour and Employment No. S.O. 2849, dated the 4th September, 1963;

And, whereas the Central Government is satisfied that the insurable population of the Bajwa area in the district of Baroda in the State of Gujarat has now exceeded 500, and it is no longer a sparse area;

Now, therefore, in exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following further amendment in the said notification, namely:—

In the Schedule to the said notification, against serial No. 1, the entry 'Bajwa' in column 3 and all entries relating to "Bajwa" in Column 4 shall be omitted.

[No. F. 6/14/67-HI.]

New Delhi, the 12th December 1967

S.O. 4550.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs. Syamala Rice Mill, Kuchipudi, Guntur District, State of Andhra Pradesh have agreed that the provisions of the Employees' Provident Fund Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the Act to the said establishment.

This notification shall be deemed to have come into force on the 1st day of April, 1967.

[No. 8/37/67-PF-II.]

S.O. 4551.—In exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government, having regard to the location of the factory, viz., the Text Book Press, Bhubaneswar, which is in an implemented area, hereby exempts the said factory from the payment of the employer's special contribution leviable under Chapter VA of the said Act for a further period of one year with effect from the 18th December, 1967.

[No. F. 6(32)/66-HI.]

S.O. 4552.—Whereas the Central Government is satisfied that the employees of the Geodetic and Research Branch Workshop, Survey of India, Dehra Dun, belonging to the Government of India, are otherwise in receipt of benefits substantially similar to the benefits provided under the Employees' State Insurance Act, 1948 (34 of 1948).

Now, therefore, in exercise of the powers conferred by section 90 of the Employees' State Insurance Act, 1948 (34 of 1948), and in continuation of the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation, (Department of Labour and Employment) No. F. 6(84)/65-HI, dated the 20th January, 1967, the Central Government, after consultation with the Corporation hereby exempts the said Geodetic and Research Branch Workshop from all the provisions of the said Act for a further period of one year with effect from the 1st January, 1968.

[No. F. 6(79)/67-HI.]

New Delhi, the 14th December 1967

S.O. 4553.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs T. V. S. Gonikoppal, Coorg, have agreed that the provisions of the Employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the 1st day of August, 1967.

[No. 8/129/67/PF-II.]

New Delhi, the 16th December 1967

S.O. 4554.—In exercise of the powers conferred by section 73-F of the Employees' State Insurance Act, 1948, (34 of 1948), and having regard to the location of the factory in an implemented area, the Central Government hereby exempts the State Transport Maintenance Centre, Dhubri, belonging to the State Government of Assam from the payment of the employer's special contribution leviable under Chapter VA of the said Act for a further period of one year with effect from the 1st January, 1968.

[No. F. 6(80)/67-HI.]

S.O. 4555.—In exercise of the powers conferred by section 73-F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby exempts the Central Dairy, Nagpur Milk Scheme, Nagpur, having regard to its location in an implemented area, from the payment of the employer's special contribution leviable under Chapter VA of the said Act for a further period of one year with effect from the 2nd January, 1968.

[No. F. 6(63)/66-HI.]

MAHINDRA KISHORE, Under Secy.

(Department of Labour and Employment)

New Delhi, the 15th December 1967

S.O. 4556.—In exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the

Central Government hereby makes the following Scheme further to amend the Madras Unregistered Dock Workers (Regulation of Employment) Scheme, 1957, the same having been previously published as required by the said sub-section, namely:—

1. This Scheme may be called the Madras Unregistered Dock Workers (Regulation of Employment) Amendment Scheme, 1967.

2. In the Schedule to the Madras Unregistered Dock Workers (Regulation of Employment) Scheme, 1957, after item (6), the following item shall be added, namely:—

“(7) Labour employed in handling iron and steel, billets and timber.”

[No. 62/3/67-Fac.II.]

K. D. HAJELA, Under Secy.

(Department of Rehabilitation)

(Office of the Chief Settlement Commissioner)

New Delhi, the 9th November 1967

S.O. 4557.—In exercise of the powers conferred by clause (a) of sub-section (2) of section 16 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954, the Central Government hereby appoints the Naib Tehsildar (Sales) of the State Rehabilitation Department to be a Managing Officer for the purpose of performing the functions assigned to a Managing Officer by or under the said Act for the entire District of Simla, in respect of the properties referred to in the notification of the Government of India in the Ministry of Works, Housing & Rehabilitation (Department of Rehabilitation) No. 3(37)/L&R-63 dated the 5th March, 1964.

The notification issued by this Department *vide* No. 3(37)/L&R-63 dated the 18th April, 1964 appointing the Tehsildars (Mahal), Kasauli and Kardaghat and Naib Tehsildar (Mahal) Simla is hereby withdrawn.

[No. 3(37)/L&R-63.]

A. G. VASWANI,

Settlement Commissioner (A) &

Ex-Officio Under Secy.

(Department of Rehabilitation)

(Office of the Chief Settlement Commissioner)

New Delhi, the 11th December 1967

S.O. 4558.—In exercise of the powers conferred on him by Sub-section (2) of Section 10 of the Displaced Persons (Claims) Supplementary Act, 1954 (XII of 1954), Chief Settlement Commissioner hereby delegates to Shri Gulab L. Aiwani, Settlement Commissioner, with effect from the forenoon of 8th November, 1967, the following powers of the Chief Settlement Commissioner:—

- (1) Powers to call for the record of any case decided by the Settlement Officer and pass orders in the case under proviso to sub-section (3) of Section 4 of the said Act.
- (2) Special powers of revision under Section 5 of the said Act in respect of cases decided under the Displaced Persons (Claims) Act, 1950 (44 of 1950).

[No. 5(6)/AGZ/66.]

H. K. TANDON,

Chief Settlement Commissioner.

MINISTRY OF INDUSTRIAL DEVELOPMENT & COMPANY AFFAIRS

(Department of Industrial Development)

(Indian Standards Institutional)

New Delhi, the 23rd November 1967

S.O. 4559—The Certification Marks licences, details of which are mentioned in the Schedule given hereafter, have lapsed or their renewal deferred:

THE SCHEDULE

| Serial No. | Licence No. and Date | Licensee's Name and Address | Article/Process and the Relevant IS: No. | S.O. Number and Date of the Gazette Notifying Grant of Licence | Remarks |
|------------|------------------------|--|--|--|---|
| (1) | (2) | (3) | (4) | (5) | (6) |
| 1 | CM/L-461 28-9-1962 | Geo Industries & Insecticides (India) Pvt. Ltd., Field No. 82/3(a) Sathankadu, Kaladipet, Madras-19. | BHC dusting powders—IS: 561-1962. | S.O. 1680 dated 22-6-1963 | Deferred after 15-10-1967. |
| 2 | CM/L-584 24-9-1963 | Ganges Flour Mills, 365 Harrisganj, G. T. Road, Kanpur. | Maida, grade high gluten—IS: 1009—1957. | S.O. 2959 dated 19-10-1963 | Deferred after 15-10-1967. |
| 3 | CM/L-600 20-11-1963 | Hind Cycles Ltd., 250 Worli, Bombay. | Bicycle chains—IS: 627—1961 | S. O. 3539 dated 21-12-1963 | The licence was deferred after 15-12-66. It should now be treated as lapsed after that date. |
| 4 | CM/L-786 21-9-1964 | Oswal Engg. & General Works, 49 Industrial Area, Faridabad. | Fractional horse power electric motors, 1/4 H.P., 1/3 HP and 1/2 HP, single phase capacitor start—IS: 996—1959 | S. O. 3762 dated 31-10-1964 | Lapsed after 15-10-1967. |
| 5 | CM/L-787 24-9-1964 | Nagpal Electric & Radio Co., 1547-48 Kucha Seth, Damba Kalan, Delhi. | Electric hot plates (open type) of voltages not exceeding 250 volts (1 000 watts only) —IS: 365—1952. | S.O. 3762 dated 31-10-1964 | Lapsed after 15-10-1967. |
| 6 | CM/L-790 30-9-1964 | Metha Chemicals No. 58 Mount Rod, Guindy, Madras-15 | Sulphuric acid—IS: 266—1961 | S. O. 3762 dated 31-10-1964 | The licence was deferred after 31-3-1967. It should now be treated as lapsed after that date. |

| (1) | (2) | (3) | (4) | (5) | (6) |
|-----|------------------------|--|---|-------------------------------|---|
| 7 | CM/L-795 30-9-1964 | Prakash Engg. Co. & Rolling Mills, Freeganj, Agra City. | Structural steel (standard quality) —IS: 226—1962 | S.O. 3762 dated 31-10-1964 | These licences were deferred after 30-9-1967. These should now be trea- ted as lapsed after that date. |
| 8 | CM/L-796 30-9-1964 | Prakash Engg. Co & Rolling Mills, Freeganj, Agra City. | Structural steel (ordinary quality) —IS: 1977—1962 | | |
| 9 | CM/L-801 20-10-1964 | Satellite Engg. Ltd., P.O. Maize Products, Kathwada, Ahmedabad-2. | Starters for fluorescent lamps, 20/40/80 watts rating—IS: 2215—1963 | S.O. 4038 dated 28-11-1964 | Deferred after 31-10-1967. |
| 10 | CM/L-1148 27-9-1965 | Ajax Electricals, 18 D.L.F. Industrial Area, Najafgarh Road, New Delhi-15 | Small AC electric motors with class 'A' insulation, single phase capacitor start—IS: 956- 1959 | S.O. 3324 dated 23-10-1965 | Deferred after 15-10-1967. |
| 11 | CM/L-1172 6-12-1965 | The Premier Lighting Industries Pvt. Ltd., Dr. A. Nair Road, Bombay-11. | Ballasts for fluorescent lamps (for switch start circuits)—IS: 1534 (Part-I)—1960. | S.O. 410 dated 5-2-1966 | The licence was de- ferred after 30-6-1967. It should now be treated as lapsed after that date. |
| 12 | CM/L-1315 22-8-1966 | Standard Products Mfg. Co., Standard House, Old Kurla, Bombay-70. | Ink, drawing, waterproof, black- IS: 789—1955 | S.O. 2925 dated 1-10-1966 | Lapsed after 15-10-1967. |
| 13 | CM/L-1343 30-9-1966 | Central Insecticides & Fertilizers, Vihar Lake Road, Sakinaka, Kurla, Bombay-70 | Malathion emulsifiable concen- trates—IS: 2567—1963 | S.O. 3299 dated 5-11-1966 | Lapsed after 30-9-1967. |




[No. MD/33:16/C.]

New Delhi, the 24th November 1967

S.O. 4560—In continuation of the notification published under S.O. 1015 dated 25 March 1965 in the Gazette of India, Part II, Section 3, Sub-section (ii) dated 3 April 1965, the Indian Standards Institution hereby notifies the additional designs of the Standard Mark for steel drums (galvanized and ungalvanized) which, together with their verbal description and the title of the Indian Standard, are given in the following schedule.

These designs of the Standard Mark, for the purpose of the Indian Standards Institution (Certification Marks) Act, 1952 and the Rules and Regulations framed thereunder, shall come into force with effect from 30th October 1967:

THE SCHEDULE

| Serial No. | Design of the Standard Mark | Product/Class of Product | No. and Title of the Relevant Indian Standard | Verbal Description of the design of the Standard Mark |
|------------|---|---|---|--|
| 1. |  <p>A DRUM ONLY IS: 2552</p> | Steel drums (galvanized and ungalvanized) | IS: 2552—1963 Specification for steel drums (galvanized and ungalvanized) | The monogram of the Indian Standards Institution consisting of letters 'ISI', drawn in the exact style and relative proportions as indicated in col. (2), the number designation of the Indian Standard being inscribed on the top side and relevant grade designation being subscribed under the bottom side of the monogram as indicated in the designs. |
| 2. |  <p>BI DRUM ONLY IS: 2552</p> | | | |
| 3. |  <p>C DRUM ONLY</p> | | | |

S.O. 4561.—In pursuance of regulation 4 of the Indian Standards Institution (Certification Marks) Regulations, 1955 the Indian Standards Institution hereby notifies that amendments to the Indian Standards given in the schedule hereto annexed have been issued under the powers conferred by the sub-regulation (1) of Regulation 3 of the said Regulations.

THE SCHEDULE

| Serial No. 1 | No. and title of the Indian Standard amended | No. and Date of Gazette Notification in which the establishment of the Indian Standard was notified | No. and Date of the Amendment | Brief particulars of the Amendment | Date from which the amendment shall have effect |
|--------------|---|---|-------------------------------|--|---|
| (1) | (2) | (3) | (4) | (5) | (6) |
| 1 | IS: 561—1962 Specification for BHC dusting powders (<i>second revision</i>) | S. O. 3593 dated 1 December 1962 | No. 3 September 1967 | (i) Clauses A-4.1 A-4.2 A-5.1(a) and A-5.1.1 have been amended. (ii) Clause A-5.1 (b) has been substituted by a new one (iii) Page 7 Table III Sl. No. (iii)—Delete the item and the entries from the respective columns against it. | } 30 September 1967 |
| 2 | IS: 562—1962 Specification for BHC water dispersible powder concentrates (<i>second revision</i>) | S.O. 3593 dated 1 December 1962 | No. 2 September 1967 | Clauses B-3.3 B-4.3 and C-3.2 have been amended. | |
| 3 | IS: 564—1961 Specification for DDT dusting powders (<i>revised</i>) | S.O. 1919 dated 23 June 1962 | No. 3 September 1967 | (i) Clauses A-4.1, A-4.2, A-5.1(a), A-5.1.1 and D-2.2 have been amended (ii) Clause A-5.1(b) has been substituted by a new one. (iii) Page 6 Table III Sl. No. (iii)—Delete the item and the entries in the respective columns against it. | } 30th September 1967 |
| 4 | IS: 565—1961 Specification for DDT water dispersible powder concentrates (<i>revised</i>) | S.O. 2242 dated 21 July 1962 | No. 3 September 1967 | Page 4, Table I. col.(3) against Sl. No. (i)—Substitute '± 5' for '± 4' | |
| 5 | IS: 1362—1962 Dimensions for screw threads for general purposes (diameter range 1.4 to 3.9 mm) (<i>revised</i>) | S.O. 1147 dated 20 April 1963 | Erratum | Page 13 third column under column heading Major Diameter—Substitute 'Coarse 9d' for 'coarse 8d' | 15 November 1967 |

| | | | | | |
|----|---|-----------------------------------|-------------------------|---|-----------------------|
| 6 | IS: 1505—1959 Specification for BHC smoke generators | S.O. 1572 dated 25 June 1960 | No. 2 September 1967 | Clause 6.1 has been substituted by a new one | } 30th September 1967 |
| 7 | IS: 2129—1962 Specification for parathion emulsifiable concentrates | S.O. 3881 dated 29 December 1962 | No. 4 September 1967 | Clauses 3.2.5 and E-3.3 have been amended | |
| 8 | IS: 2265—1963 Specification for galvanized steel wire strand for signalling purposes | S. O. 1147 dated 20 April 1963 | No. 1 August 1967 | (i) Clauses 0.4 and 6.5 have been amended (ii) Clause 3.1 has been substituted by a new one. NOTE :—This amendment was wrongly issued as Amendment No. 3 which remains cancelled now. Errata No. 1 and 2 have also been included in this amendment. | 31st August 1967. |
| 9 | IS: 2659—1964 Specification for enamelled round copper wire for elevated temperatures | S.O. 1152 dated 10 April 1965 | No. 2 August 1967 | (i) Clause 4.1.1 has been deleted (ii) Table VI has been substituted by a new one. | } 31 August 1967. |
| 10 | IS: 2864—1964 Specification for chlor-dane dusting powders | S.O. 618 dated 20 February 1965 | No. 1 September 1967 | (i) Clauses C-2.1, E-4.1, E-4.2, E-5.1(a) and E-5.1.1 have been amended (ii) Clause E-5.1 (b) has been substituted by a new one. (iii) Page 14, Table 3, Sl. No. (iii)—Delete the item and the entries from the respective columns against it. | |
| 11 | IS: 2865—1964 Specification for methyl parathion emulsifiable concentrates. | S. O. 895 dated 20 March 1965 | No. 1 September 1967 | Clause 2.2.5 has been amended | } 30 September 1967 |
| 12 | IS: 3043—1966 Code of practice for earthing. | S. O. 4023 dated 31 December 1966 | No. 1 September 1967 | (i) Clauses 9.2.2, 12.3.2, 12.4.2, 12.7.2, 14.2.1, 15.1.1, 17.3.2.3, 17.3.2.4 and 17.3.2.5 have been amended (ii) Clauses 4.7, 9.1.2 and 9.2.4 have been substituted by new ones. | |
| 13 | IS: 3832—1966 Specification for hand-operated chain pulley blocks. | S.O. 1533 dated 29 April, 1967 | No. 1 October 1967 | Clause 3.7.1 has been substituted by a new one. | 31 October 1967. |

Copies of these amendment slips are available, free of cost, with the Indian Standards Institution, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-1 and also its branches at (i) Bombay Mutual Terrace, Sandhurst Bridge, Bombay-7 (ii) Third and Fourth Floors, 5 Chowringhee Approach Calcutta-13 (iii) Second Floor, Sathyamurthi Bhavan, 54 General Patters Road, Madras (iv) 117/418-B Sarvodaya Nagar Kanpur.

[No. MD/13:5.]

S.O.4562.—In pursuance of sub-regulations (2) and (3) of regulation 3 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that the Indian Standard(s), particulars of which are given in the Schedule hereto annexed have been established during the period 1 to 15 November, 1967 :

THE SCHEDULE

| Sl. No. | No. and Title of the Indian Standard Established | No. and Title of the Indian Standard or Standards, if any, superseded by the new Indian Standard | Brief Particulars |
|---------|--|--|--|
| (1) | (2) | (3) | (4) |
| 1 | IS: 380—1967 Specification for French chalk, technical (<i>first revision</i>) | IS: 380-1952 Specification for French chalk, technical | This standard prescribes the requirements and the methods of sampling and test for French chalk, technical used for various purposes (Price Rs. 6.00) |
| 2 | IS: 422—1967 Specification for brass sheet and strip for the manufacture of utensils (<i>first revision</i>) | IS: 422—1959 Specification for brass sheet and strip for the manufacture of utensils | This standard covers the requirements for the following two grades of brass sheet and strip suitable for the manufacture of household utensils and general brass hollow-ware : (a) Grade CuZn 40(A) for machine pressing and (b) Grade CuZn 40(B) for hand-worked article. (Price Rs. 3.50). |
| 3 | IS: 831—1966 Specification for badminton racket frames (<i>revised</i>) | IS: 831—1957 Specification for badminton racket frames | This standard covers the material, dimensional and constructional requirements for the badminton racket frames (Price Rs. 2.00). |
| 4 | IS: 833—1967 Specification for rib-knitted gents' nylon stockings | .. | This standard prescribes the constructional details and other particulars of rib-knitted gents' nylon stockings, bleached or dyed (Price Rs. 3.50) |
| 5 | IS: 1072—1967 Specification for leaf chains | .. | This standard covers the requirements for leaf chains and dimensions for clevises and sheaves (Price Rs. 3.50, |
| 6 | IS: 1182—1967 Recommended practice for radiographic examination of fusion welded butt joints in steel plates (<i>first revision</i>) | IS: 1182—1957 General recommendations for radiographic examination of fusion welded joints | This standard prescribes recommendations for the radiographic examination of fusion welded butt joints in steel. The recommendations are based primarily on radiographic techniques which have been used successfully in industry for examination of welded joints (Price Rs. 6.50). |
| 7 | IS: 1576—1967 Specification for solid pressboard for electrical purposes | .. | This standard prescribes the requirements and methods of sampling and test for solid press boards, dyed or of natural colour, having a calendered finish and supplied in an unimpregnated condition (Price Rs. 9.00). |

| (1) | (2) | (3) | (4) |
|-----|--|--|---|
| 8 | IS: 1660—1967 Specification for wrought aluminium utensils (<i>first revision</i>) | IS: 1960—1960 Specification for wrought aluminium utensils | This standard prescribes general requirements, quality of material and thickness for some of the more commonly used wrought aluminium utensils of three classes (Price Rs. 6.00) |
| 9 | IS: 2186—1967 Dimensions riv's on for external interference fit threads | .. | This standard covers the dimensions for external interference fit threads in the diameter range 1 to 150 mm. Price Rs. 2.00) |
| 10 | IS: 2232—1967 Specification for slotted and castle nuts | IS: 2232—1962 Specification for slotted and castle nuts. | This standard prescribes the requirements of precision and black grades of slotted and castle nuts in the following diameter ranges : (a) Precision grade slotted nuts . 4 to 10 mm (b) Black grade slotted nuts 12 to 33 mm (c) Precision and black grades 12 to 100 mm (Price Rs. 5.50) |
| 11 | IS: 2429—1967 Specification for electric butt welded steel chain, short link and pitched or calibrated, grade 30, for lifting purposes (<i>first revision</i>) | IS: 2429—1963 Specification for electrically welded mild steel chain short-link and pitched or calibrated for lifting purposes | This standard covers the requirements for electric resistance or flash butt welded steel chains of the short link and pitched or calibrated types, of grade 30, used for lifting and haulage purposes (Price Rs. 5.50) |
| 12 | IS: 2617—1967 Specification for millboard, grey-board and strawboard (<i>first revision</i>) | IS: 2617—1964 Specification for millboard greyboard and strawboard | This standard prescribes the requirements for millboard, grey-board and strawboard (Price Rs. 3.50) |
| 13 | IS: 3394—1967 Code of practice for fire safety of industrial buildings: general storage and warehousing including cold storages | .. | This Code covers the essential requirements of fire safety of all godowns, warehouses and outdoor storage sites forming part of industrial complexes and those rented or owned by public and private warehousing bodies or individuals (Price Rs. 4.00) |
| 14 | IS: 3640—1967 Specification for hexagon fit bolts | .. | This standard covers the requirements of hexagon fit bolts in the diameter range 10 to 125 mm (Price Rs. 5.00) |
| 15 | IS: 3753—1967 Methods of sampling for alcoholic drinks | .. | This standard prescribes the methods of sampling and criteria for ascertaining the conformity of the alcoholic drinks to the relevant specifications (Price Rs. 2.50) |
| 16 | IS: 3961 (Part II)—1967 Recommended current ratings for cables Part II PVC-insulated and PVC-sheathed heavy duty cables | .. | This standard covers recommended current ratings for PVC-insulated and PVC-sheathed heavy duty cables covered by IS: 1554 (Part I)—1964 either laid direct in ducts or in air (Price Rs. 8.00) |

| (1) | (2) | (3) | (4) |
|-----|---|-----|---|
| 17 | IS: 4002—1967 General requirements and tests for audio frequency transformers and chokes used in transistorized equipment | .. | This standard lays down the general requirements and tests for audio frequency transformers (with two or more windings) and chokes (with or without depolarization), used in transistorized circuits employed in electronic and telecommunication equipment (Price Rs. 7.00) |
| 18 | IS: 4004—1967 Application guide for non-linear resistor type lightning arresters for alternating current systems | .. | This guide lays down practices for the application of non-linear resistor-type lightning arresters, for Ac systems which are covered by IS:3070 (Part I)—1965 (Price Rs. 6.50) |
| 19 | IS: 4010—1967 Specification for sounding pipes | .. | This standard specifies the requirements and dimensions for various sounding pipes on board ships (Price Rs. 5.50) |
| 20 | IS: 4021—1967 Specification for timber door, window and ventilator frames | .. | This standard lays down the requirements regarding material, construction, workmanship and sizes of timber door, window and ventilator frames generally used in domestic buildings, offices, schools and hospitals (Price Rs. 5.50) |
| 21 | IS: 4036—1967 Specification for trolleys, patient | .. | This standard specifies the requirements for fixed-top patients, trolleys used in hospitals and at other similar institutions (Price Rs. 2.00) |
| 22 | IS: 4037—1967 Specification for stretchers and stretcher carriers | .. | This standard specifies the essential dimensions and other requirements for stretchers and stretcher carriers to ensure suitability and usability in different forms of transport thus eliminating the need to transfer patients from one stretcher to another (Price Rs. 2.50) |
| 23 | IS: 4101 (Part II)—1967 Code of practice for external facings and veneers Part II cement concrete facing | .. | This standard covers fixing of cement concrete facing which may be in the form of precast concrete facing blocks or slab units (Price Rs. 6.00) |
| 24 | IS: 4106—1967 Specification for bunting cloth, cotton khadi, dyed | .. | This standard prescribes constructional details and other particulars of bunting cloth, cotton khadi, dyed (Price Rs. 2.50) |
| 25 | IS: 4107—1967 Specification for blanketing cloth wool khadi | .. | This standard prescribes the constructional details and other particulars of blanketing cloth, wool khadi (Price Rs. 3.50) |
| 26 | IS: 4110—1967 Glossary of terms used in high vacuum technology. | .. | This glossary covers definition of terms commonly used in the field of vacuum technology (Price Rs. 12.00) |

| (1) | (2) | (3) | (4) |
|-----|---|-----|--|
| 27 | IS: 4114—1967 Coded markings of values of capacitance and resistance by letters and digits | .. | This standard prescribes a code for marking of values and tolerances of capacitors and resistors by means of letters and digits (<i>Price Rs. 2.50</i>) |
| 28 | IS: 4116—1967 Specification for wooden shelving cabinets (adjustable type) | .. | This standard covers the requirements for materials, sizes, construction and finish of adjustable wooden shelving cabinets with hinged doors (<i>Price Rs. 4.00</i>) |
| 29 | IS: 4119—1967 Specification for charcoal-burning pressing irons | .. | This standard covers the requirements of washerman's (DHOBIs), tailors and domestic charcoal-burning pressing irons (<i>Price Rs. 3.50</i>) |
| 30 | IS: 4122—1967 Method of test for surface softening of natural building stones by exposure to acidic atmospheres | .. | This standard lays down the procedure for determining the extent of surface softening taking place in natural building stones when exposed to acidic atmospheres (<i>Price Rs. 2.00</i>) |
| 31 | IS: 4146—1967 Application guide for voltage transformers | .. | This guide covers application of voltage transformers for use with both electrical measuring instruments and meters (measuring voltage transformer) and electrical protective devices including broken delta voltage transformer for the application of directional earthfault protection (protective voltage transformers). Reference has also been made to the use of voltage transformer for the dual purpose of measurement and protection (<i>Price Rs. 4.00</i>) |
| 32 | IS: 4148—1967 Specification for surgical rubber gloves | .. | This standard prescribes the requirements and methods of sampling and test for surgical rubber gloves of sizes 6, 6½, 7 ½ and 8 (<i>Price Rs. 3.50</i>) |
| 33 | IS: 4152—1967 Specification for carbon dioxide cylinders for fire fighting purposes on boardship | .. | This specification deals with light-weight seamless carbon dioxide cylinders of capacity 45 and 67 litres intended for fire fighting purposes on boardships. This standard also lays down the requirements of the material to be used in the manufacture of these cylinders, inspection, marking and testing (<i>Price Rs. 5.00</i>) |
| 34 | IS: 4156—1967 Methods for sampling of barytes | .. | This standard lays down the procedure to be followed in collecting and preparing samples from a lot in order to determine size distribution, moisture content and chemical composition of barytes in bulk (<i>Price Rs. 5.50</i>) |

| (1) | (2) | (3) | (4) |
|-----|---|-----|---|
| 35 | IS: 4169—1967 Method for calibration of elastic proving device | .. | This standard prescribes method for calibration of elastic proving device to be used for static verification of testing machines (Price Rs. 3.50) |
| 36 | IS: 4174—1967 Specification for typewriter ribbons | .. | This standard prescribes the requirements and the methods of sampling and test for inked record ribbons made of cotton fabric, for use on typewriters of various types (Price Rs. 2.50) |
| 37 | IS: 4176—1967 Method for simple torsion test of aluminium and aluminium alloy wire | .. | This standard prescribes the method for simple torsion testing of aluminium and aluminium alloy wire of nominal size 0.5 mm and above (Price Rs. 2.00) |
| 38 | IS: 4185—1967 Specification for gummed paper tapes | .. | This standard prescribes the requirements and the methods of sampling and test for gummed paper tapes (Price Rs. 2.50) |
| 39 | IS: 4196—1967 Specification for maize seed for propagation purposes | .. | This standard prescribes the requirements and the methods of sampling and test for maize seed (<i>Zea mays</i> Linn.) for propagation purposes. This standard shall apply to the seeds of both the open pollinated varieties and the hybrids (Price Rs. 2.50) |
| 40 | IS: 4197—1967 Specification for rice seed for propagation purposes | .. | This standard prescribes the requirements and the methods of sampling and test for unhusked rice seed <i>Oryza sativa</i> L. for propagation purposes (Price Rs. 2.00) |
| 41 | IS: 4204—1967 Specification for drafting chairs | .. | This standard specifies requirements for chairs for draftsmen for use with drafting tables (Price Rs. 2.00) |
| 42 | IS: 4208—1967 Specification for brush, stencil | .. | This standard prescribes the requirements and the methods of sampling and test for stencil brush (Price Rs. 4.00) |
| 43 | IS: 4235—1967 Specification for chillies, fresh | .. | This standard prescribes the requirements and the methods of sampling and test for fresh chillies (<i>Capsicum annum</i>) (Price Rs. 2.50) |
| 44 | IS: 4243—1967 Specification for mandarins | .. | This standard prescribes the requirements and the methods of sampling and test for mandarin (<i>Citrus reticulata</i> Blanco.) also known as 'loose-skinned-orange'. (Price Rs. 4.00) |
| 45 | IS: 4245—1967 Specification for needle holder (Gillies) combined with scissors, for plastic surgery | .. | This standard covers requirements for needle holder (Gillies) combined with scissors for plastic surgery (Price Rs. 2.50) |

| (1) | (2) | (3) | (4) |
|-----|--|-----|--|
| 46 | IS: 4250—1967 Specification for domestic electric food-mixers (liquidizers, blenders and grinders) | .. | This standard applies to electric motor-driven food mixers (liquidizers, blenders and grinders) mainly intended for domestic use and designed for operation at voltages not exceeding 250 volts. Machines combining all the functions, if necessary by replacement of attachments, are also covered (Price Rs. 5.50) |
| 47 | IS: 4252—1967 Specification for electroplated coatings of gold for decorative purposes | .. | This standard specifies four grades of electroplated coatings of gold applied to metallic surfaces for decorative purposes (Price Rs. 2.50) |
| 48 | IS: 4253 (Part I)—1967 Specification for cork composition sheets Part I plain cork | .. | This standard specifies the requirements and methods of test for cork composition in the form of single layer sheets used for gaskets in automotive application (Price Rs. 4.00) |
| 49 | IS: 4254—1967 Specification for jaw crushers | .. | This standard covers the jaw crushers which are commonly used for crushing rocks (Price Rs. 3.50) |
| 50 | IS: 4256—1967 Specification for hydrated calcium sulphate from marine brine | .. | This standard prescribes the requirements and the methods of sampling and test for hydrated calcium sulphate from marine brine (Price Rs. 2.00) |

Copies of these Indian Standards are available for sale, with the Indian Standards Institution Manik Bhawan, 9 Bahadur Shah Zafar Marg, New Delhi-1 and also its branch offices at (i) Bombay Mutual Terrace, Sandhurst Bridge, Bombay-7, (ii) Third and Fourth Floors, 5 Chowringhee Approach, Calcutta-13, (iii) Second Floor, Sathyamurthi Bhawan, 54 General Patters Road, Madras-2 and (iv) 117/418B, Sarvodaya Nagar, Kanpur.







[No. MD/13:2.]

New Delhi, the 5th December 1967

S.O. 4563—In supersession of the then Ministry of Commerce and Industry (Indian Standards Institution) Notification No. S.O. 1053 dated 27 March 1963 published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated 13 April 1963, the Indian Standards Institution hereby notifies, that the Standard Marks for laundry soaps have been revised. The revised designs of the Standard Marks together with the title of the relevant Indian Standard and verbal description of the designs are given in the Schedule hereto annexed.

These Standard Marks for the purpose of the Indian Standards Institution (Certification Marks) Act, 1952, and the Rules and Regulations framed thereunder, shall come into force with effect from 1 December 1967 :


THE SCHEDULE

| Sl No. | Design of the Standard Mark | Product/Class of Product | No. and Title of the Relevant Indian Standard | Verbal description of the design of the Standard Mark |
|--------|---|--------------------------|---|---|
| (1) | (2) | (3) | (4) | (5) |
| 1. | IS : 285 | Laundry Soaps | IS : 285—1964 Specification for laundry soaps (<i>revised</i>). | The monogram of the Indian Standards Institution, consisting of letters 'ISI', drawn in the exact style and relative proportions as indicated in col. (2), the number designation of the Indian Standard being super-scribed on the top side and the relevant type and grade designations being subscribed under the bottom side of the monogram as indicated in the designs. |
| |  | | | |
| | TYPE 1—GRADE 1 | | | |
| 2. | IS : 285 | | | |
| |  | | | |
| | TYPE 1—GRADE 2 | | | |
| 3. | IS : 285 | | | |
| |  | | | |
| | TYPE 2—GRADE 1 | | | |
| 4. | IS : 285 | | | |
| |  | | | |
| | TYPE 2—GRADE 2 | | | |
| 5. | IS : 285 | | | |
| |  | | | |
| | TYPE 3—GRADE 1 | | | |
| 6. | IS : 285 | | | |
| |  | | | |
| | TYPE 3—GRADE 2 | | | |

S.O. 4564.—In partial modification of the then Ministry of Commerce and Industry (Indian Standards Institution) Notification No. S.O. 879 dated 31st March 1960, published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated 9th April 1960 the Indian Standards Institution hereby notifies that the Standards Marks for rolled brass plate sheet, strip and foil have been revised. The revised design of the Standard Mark together with the title of the relevant Indian Standard and verbal description of the design is given in the Schedule hereto annexed.

This Standard Mark for the purpose of the Indian Standards Institution (Certification Marks) Act, 1952 and the Rules and Regulations framed thereunder, shall come into force with effect from 23 November 1967 :

THE SCHEDULE

| Sl. No. | Design of the Standard Mark | Product/Class of Product | No. and Title of the Relevant Indian Standard | Verbal description of the design of the Standard Mark |
|---------|---|---|---|---|
| (1) | (2) | (3) | (4) | (5) |
| | IS : 410  | Rolled brass plate sheet, strip and foil. | IS : 410—1967 Specification for rolled brass plate sheet, strip and foil (<i>second revision</i>) | The monogram of the Indian Standards Institution, consisting of letters 'ISI', drawn in the exact style and relative proportions as indicated in col. (2), the number designation of the Indian Standard being superscribed on the top side of the monogram as indicated in the design. |

[No. MD/17:2.]

New Delhi, the 11th December 1967

S.O. 4565.—In partial modification of the Notification Number S.O. 3674, dated 22nd September, 1967, published in the Gazette of India, Part II, Section 3(ii), dated 14th October, 1967, the Indian Standards Institution hereby notifies that, with a view to facilitate gradual change over by the Certification Marks Licensees, IS : 1977-1962 Indian Standard Specification for structural steel (ordinary quality), referred to at Serial No. 2 of the Schedule, shall remain in force up to 31st March, 1968, both with and without Amendment No. 1 of August, 1967. After 31st March, 1968, IS : 1977-1962 with Amendment No. 1 only will be in force.

[No. MD/13 : 5.]

S.O. 4566.—The article covered in Licence No. CM/L-1407 held by M/s. Power Cables Pvt. Ltd. of Vithalwadi, Near Kalyan (C. Rly.), the details of which are given in the Notification published under S.O. 1531 in the Gazette of India, Part II, Section 3(i) dated 29th April, 1967 has been revised as under with effect from 16th October, 1967:

Polythene Insulated and PVC Sheathed Cables, Single Core and Twin Flat, with Aluminium Conductors;

Brand:—'INSULAST'

[No. MD/BO: 11-A.]

S.O. 4567.—The articles covered in licence No. CM/L-1431 held by M/s Bombay Cable Co. Pvt. Ltd., Agra Road, Bhandup, Bombay-78, details of which are given in the Notification published under S.O. 2769 in the Gazette of India, Part II, Section 3(ii) dated 12th August, 1967 have been revised as under with effect from 16th November, 1967:

Rubber Insulated Cables of the following types :

- (i) VIR Single Core, 250/440 Volts Grade with Aluminium Conductor.
- (ii) VIR Weatherproof, 250/440 Volts Grade with Aluminium Conductor.
- (iii) VIR Weatherproof, 650/1 100 Volts Grade with Aluminium Conductor.
- (iv) VIR Braided and Compounded, 650/1 100 Volts Grade with Aluminium Conductor.

- (v) VIR Tough Rubber Sheathed, 250/440 Volts Grade with Aluminium Conductor.
- (vi) VIR Tough Rubber Sheathed, 650/1 100 Volts Grade with Aluminium Conductor.

[No. MD/BO: 11-A.]

New Delhi, the 12th December 1967

S. O.—4568. In pursuance of sub-regulation (1) of Regulation 8 of the Indian Standards Institution (Certification Marks) Regulations, 1955, as subsequently amended, the Indian Standards Institution hereby notifies that twenty one licences, particulars of which are given in the Schedule here to annexed, have been granted authorizing the licensees to use the Standard Mark.

THE SCHEDULE

| Sl. No. | Licence No. and Date | Period of Validity From To | Name and Address of the Licensee | Article/ Process Covered by the Licence | Relevant Indian Standard | |
|---------|-------------------------|----------------------------|----------------------------------|--|--|--|
| (1) | (2) | (3) | (4) | (5) | (6) | |
| 1. | CM/L-1556 7-11-1967 | 16-11-67 | 15-11-68 | M/s. Sehgal Sanitary Fittings (Pvt.) Ltd., Village Chuharwali, P.O. Adampur, Jullundur. | Sand-cast brass screw-down bib taps 15 mm size and stop taps 15 mm size for water services. | IS : 781—1959 Specification for sand-cast brass screw down bib taps and stop taps for water services. |
| 2. | CM/L-1557 8-11-1967 | 16-11-67 | 15-11-68 | M/s. Bhutoria Engg. Works Ltd., 17, G. T. Road, Baramandir, Konnagar, Hooghly having their regd. office at Bhutoria House, 8, Lindsay Street, Calcutta-16. | Sluice valves for water works purposes, class 1 up to 65 mm size. | IS : 780E—1966 Specification for sluice valves for water works purposes (<i>Second revision</i>). |
| 3. | CM/L-1558 8-11-1967 | 8-11-67 | 7-11-68 | M/s. Universal Cables Ltd., Satna (M. P.). | Hard-drawn stranded aluminium and steel cored aluminium conductors for overhead power transmission purposes. | IS : 398—1961 Specification for hard-drawn stranded aluminium and steel cored aluminium conductors for overhead power transmission purposes. |
| 4. | CM/L-1559 14-11-1967 | 16-11-67 | 15-11-68 | The Fertilizers & Chemicals Travancore Ltd., P. O. Udyogmandal, Alwaye (Kerala). | Ammonium chloride, pure grade, type 1 (for batteries and dry cells). | IS : 1113—1965 Specification for ammonium chloride, technical and pure (<i>revised</i>). |
| 5. | CM/L-1560 14-11-1967 | 1-12-67 | 30-11-68 | M/s. Metro Soap Works, H. Sidaiah Road, Bangalore-2. | Laundry soap, type 1, grade 2. | IS : 285—1964 Specification for laundry soap (<i>revised</i>). |
| 6. | CM/L-1561 14-11-1967 | 16-11-67 | 15-11-68 | M/s. Metropole Industries, Pradhankhunta, Distt. Dhanbad, Bihar. | Endrin emulsifiable concentrates. | IS : 1310—1958 Specification for Endrin emulsifiable concentrates. |

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| 7. | CM/L-1562 14-11-1967 | 16-11-67 | 15-11-68 | M/s. Zeedoneil Industries (India) Pvt. Ltd., 15 Dum Dum Road, Calcutta-30 having their office at 20 Strand Road, Calcutta-1. | Tea-chest metal fittings. | IS : 10—1964 Specification for plywood tea-chests (<i>second revision</i>). |
| 8. | CM/L-1563 14-11-1967 | 16-11-67 | 15-11-68 | M/s. Rajasthan Cable Industries Pvt. Ltd., Heavy Industrial Area, Kota-3 (Rajasthan). | PVC insulated cables with aluminium conductors 250/440 and 650/1100 volts grade single core unsheathed and PVC sheathed. | IS : 694 (Part II)—1964 Specification for PVC insulated cables for voltages up to 1100 volts (<i>revised</i>). |
| 9. | CM/L-1564 14-11-1967 | 1-12-67 | 30-11-68 | M/s. Harlalka M. C. & Co., Industrial Estate, Gauhati having their office at Industrial Estate, Bamuni Maidan, Gauhati. | Tea-chest metal fittings. | IS : 10—1964 Specification for plywood tea-chests (<i>second revision</i>). |
| 10. | CM/L-1565 14-11-1967 | 16-11-67 | 15-11-68 | M/s. National Trading Corpn., Debendra Mullick Street, Calcutta-12 having their office at 23 Strand Road, (2nd Floor), Calcutta-1. | Tea-chest metal fittings. | IS : 10—1964 Specification for plywood tea-chests (<i>second revision</i>). |
| 11. | CM/L-1566 24-11-67 | 1-12-67 | 30-11-68 | M/s. Keen Pesticides (Pvt.) Ltd., Industrial Estate, Mudical P.O., (Via) Perumbanoor, Kerala having their office at Tower House, M.G. Road, Ernakulam (Kerala). | BHC water dispersible powder concentrates. | IS:562—1962. Specification for BHC water dispersible powder concentrates. |
| 12. | CM/L-1567 24-11-1967 | 1-12-67 | 30-11-68 | M/s. Keen Pesticides (Pvt.) Ltd, Industrial Estate, Mudical P.O., (Via) Perumbanoor, Kerala having their office at Tower House, M.G. Road, Ernakulam (Kerala). | DDT water dispersible powder concentrates. | IS: 565—1961 Specification for DDT water dispersible powder concentrates. |
| 13. | CM/L-1568 24-11-1967 | 1-12-67 | 30-11-68 | M/s. Prakash Insecticides Pvt. Ltd., P.O. Naini, Distt Allahabad. | BHC dusting powders. | IS: 561—1962 Specification for BHC dusting powders (<i>second revision</i>). |

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| 14 | CM/L-1569 24-11-1967 | 1-12-67 | 30-11-68 | M/s. Keen Pesticides (Pvt.) Ltd., Industrial Estate, Mudical P.O., (Via) Perumbanoor, Kerala having their office at Tower House, M.G. Road, Ernakulam (Kerala). | Malathion emulsifiable concentrates. | IS: 2567-1963 Specification for malathion emulsifiable concentrates. |
| 15 | CM/L-1570 24-11-1967 | 1-12-67 | 30-11-68 | M/s. Engg. Cottage Industries, 7/77 Tilak Nagar, Kanpur. | Steel toe caps for miners' safety leather boots and shoes. | IS: 1989-1967 Specification for miners' safety leather boots and shoes (first revision). |
| 16 | CM/L-1571 23-11-1967 | 1-9-67 | 31-8-68 | M/s. Cachar Plywood Ltd., Goom-bira Tea Estate, P.O. Olivia-cherra, Distt. Cachar, Assam. | Tea-chest plywood panels. | IS: 10-1964 Specification for plywood tea-chests (second revision). |
| 17 | CM/L-1572 27-11-1967 | 1-12-67 | 30-11-68 | M/s. Arail Brothers, 14/4 Milestone, Mathura Road, Faridabad having their office at Chawri Bazar, Delhi-6. | Plastic water closets seats and covers, type 'A'. | IS: 2548E-1966 Specification for plastic water-closets seats and covers (revised). |
| 18 | CM/L-1573 27-11-1967 | 1-12-67 | 30-11-68 | M/s. National Wood Products, 19/9 Harish Neogi Road, Calcutta-4. | Tea-chest plywood panels. | IS: 10-1964 Specification for plywood tea-chests (second revision). |
| 19 | CM/L-1574 27-11-1967 | 1-12-67 | 30-11-68 | M/s. P. Kothary & Co. 76/2/2 Maharishi Debendra Road, Calcutta-6 having their office at 16 Nalini Sett. Road, Calcutta-7. | Tea-chest metal fittings. | IS: 10-1964 Specification for plywood tea-chests (second revision). |
| 20 | CM/L-1575 27-11-1967 | 16-12-67 | 15-12-68 | M/s. J. L. Banerjee & Sons, 47-B, Joy Mitro Street, Calcutta-5. | Tea-chest metal fittings. | IS: 10-1964 Specification for plywood tea-chests (second revision). |
| 21 | CM/L-1576 27-11-1967 | 1-12-67 | 30-11-68 | M/s. Sudershan Timber Trading Co., Saharanpur Road, P.O. Yamunanagar, Distt. Ambala. | Plywood tea-chest battens. | IS: 10-1964 Specification for plywood tea-chests (second revision). |

[No. MD/33 : 16.]

S.O. 4569—In pursuance of sub-regulation (i) of Regulation 8 of the Indian Standards Institution (Certification Marks), Regulations, 1955, as subsequently amended, the Indian Standards Institution hereby notifies that seventy-nine licences, particulars of which are given in the Schedule hereto annexed, have been renewed.

THE SCHEDULE

| Sl. No. | Licence No. and date | Period of Validity | | Name and Address of the Licensee | Article/Process covered by the licence | Relevant Indian Standard |
|---------|----------------------|--------------------|----------|---|--|---|
| | | From | To | | | |
| (1) | (2) | (3) | (4) | (5) | (6) | (7) |
| 1 | CM/L-34 4-11-1957 | 16-11-67 | 15-11-68 | The National Insulated Cable Co. of India Ltd., Shamnagar (24 Parganas, West Bengal) having their Regd. Office at Nicco House, Hare Street, Calcutta-1. | Hard-drawn copper solid and stranded conductors | IS : 282-1963 Specification for hard-drawn copper conductors for overhead power transmission <i>(revised)</i> . |
| 2 | CM/L-36 4-11-1957 | 16-11-67 | 15-11-68 | The National Insulated Cable Co. of India Ltd., Shamnagar (24 Parganas, West Bengal) having their Regd. Office at Nicco House, Hare Street, Calcutta-1. | Hard-drawn stranded aluminium and steel-cored aluminium conductors for overhead power transmission purposes. | IS : 398-1961 Specification for hard-drawn stranded aluminium and steel-cored aluminium conductors for overhead power transmission purposes <i>(revised)</i> . |
| 3 | CM/L-37 4-11-1957 | 16-11-67 | 15-11-68 | The National Insulated Cable Co. of India Ltd., Shamnagar (24 Parganas, West Bengal) having their Regd. Office at Nicco House, Hare Street, Calcutta-1. | Rubber-insulated cables and flexible cords of all types and sizes specified in IS : 434 (Part I)-1964 and IS : 434 (Part II)-1964. | (i) IS : 434 (Part I)-1964 Specification for rubber-insulated cables with copper conductors <i>(revised)</i> . (ii) IS : 434 (Part II)-1964 Specification for rubber-insulated cables with aluminium conductors <i>(revised)</i> . |
| 4 | CM/L-38 4-11-1957 | 16-11-67 | 15-11-68 | The National Insulated Cable Co. of India Ltd., Shamnagar (24 Parganas, West Bengal) having their Regd. Office at Nicco House, Hare Street, Calcutta-1. | Cotton-covered round copper conductors. | IS : 450-1964 Specification for cotton-covered round copper conductors <i>(revised)</i> . |
| 5 | CM/L-39 4-11-1957 | 16-11-67 | 15-11-68 | M/s Rashtriya Metal Industries Ltd., Kurla Road, Andheri (East), Bombay-41. | Wrought aluminium and aluminium alloy utensils. | IS : 21-1959 Specification for wrought aluminium and aluminium alloys for utensils <i>(second revision)</i> . |

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| 6 | CM/L-40 4-11-1957 | 16-11-67 | 15-11-68 | M/s Rashtriya Metal Industries Ltd., Kurla Road, Andheri (East), Bombay-41. | Wrought aluminium and aluminium alloy sheets, strips and circles. | IS : 21-1959 Specification for wrought aluminium and aluminium alloys for utensils (second revision). |
| 7 | CM/L-66 7-2-1958 | 1-12-67 | 30-11-68 | M/s Sarvasi Woodcrafts (Assam), Prop. Jayshree Tea & Industries Ltd., P.O. Mariani, District Sibsagar. | Tea-chest plywood panels. | IS : 10-1964 Specification for plywood tea-chests (second revision). |
| 8 | CM/L-104 7-10-1958 | 1-11-67 | 31-10-68 | M/s E.I.D. Parry Limited, Nillikuppam, South Arcot Distt. Madras. | Rectified spirit, grade 1. | IS : 323-1959 Specification for rectified spirit (revised). |
| 9 | CM/L-105 31-10-1958 | 16-11-67 | 15-11-68 | M/s Sylvan Plywood Mills, Kottayam (Kerala). | Tea-chest plywood panels. | IS : 10-1964 : Specification for plywood tea-chests (second revision). |
| 10 | CM/L-107 4-11-1958 | 16-11-67 | 15-11-68 | The Assam Veneer & Saw Mills Limited, 3 Clive Row, Calcutta-1. | Tea-chests plywood panels. | IS : 10-1964 Specification for plywood tea-chests (second revision). |
| 11 | CM/L-148 28-9-1959 | 1-12-67 | 30-11-68 | M/s Flintrock Products Pvt. Ltd., Belvedere Road, Mazagaon, Bombay-10. | BHC dusting powders. | IS : 561-1962 Specification for BHC dusting powders (second revision). |
| 12 | CM/L-150 15-10-1959 | 1-11-67 | 31-10-68 | The Packing Materials Corporation, Khed Gally, Off Gokhale Road (South), Bombay-28. | Water-proofing packing paper. | IS : 1398-1960 Specification for packing paper, waterproof bitumen laminated. |
| 13 | CM/L-225 16-9-1960 | 1-12-67 | 30-11-68 | M/s Veneer Mills Private Ltd., Tinsukia, Assam. | Tea-chest plywood panels. | IS : 10-1964 Specification for plywood tea-chests (second revision). |
| 14 | CM/L-243 23-11-1960 | 1-12-67 | 30-11-68 | M/s Hindustan Tin Works Pvt. Ltd. Ghaziabad (U.P.). | 18-litre square tins. | IS : 916-1966 Specification for 18-litre square tins (revised). |
| 15 | CM/L-302 25-5-1961 | 1-12-67 | 30-11-68 | M/s National Plywood Industries, 6 Gorapada Sarkar Lane, Calcutta-4. | Tea-chest plywood panels. | IS : 10-1964 Specification for plywood tea-chests (second revision). |
| 16 | CM/L-351 31-10-1961 | 16-11-67 | 15-11-68 | M/s Bharat Wood Works Private Ltd., P. O. Dibrugarh, Assam. | Tea-chest plywood panels. | IS : 10-1964 Specification for plywood tea-chests (second revision). |
| 17 | CM/L-352 31-10-1961 | 16-11-67 | 15-11-68 | M/s Devidayal Cable Industries Ltd., Gupta Mills Estate, Darukhana, Reay Road, Bombay-10. | PVC insulated cables, 250/440 and 650/1100 volts grade. | (i) IS : 694 (Part I)-1964 Specification for PVC insulated cables with copper conductors (revised). (ii) IS : 694 (Part II)-1964 Specification for PVC insulated cables with aluminium conductors (revised). |

| (1) | (2) | (3) | (4) | (5) | (6) | (7) |
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| 18 | CM/L-385 14-2-1962 | 16-11-67 | 15-11-68 | M/s Assam Saw Mills and Timber Co. Ltd., 62, Ballygunge Circular Road, (1, Rainey Park), Calcutta-19 (Factory at Namsoi, NEFA). | Tea-chest plywood panels. | IS : 10-1964 Specification for plywood tea-chests (revision) for (Second) |
| 19 | CM/L-423 19-6-1962 | 1-12-67 | 30-11-68 | The Vikon Electrical Works (P) Ltd., G. T. Road, Goraya, (Punjab). | Semi-enclosed electric fuses, 15 amp, 250 volts, with HC and MEM types fuse bases and carriers. | IS : 2086-1963 Specification for carriers and bases used in rewirable type electric fuses up to 650 volts (revised). |
| 20 | CM/L-461 28-9-1962 | 16-10-67 | 15-10-68 | M/s Geo Industries and Insecticides (India) Pvt. Ltd., Field No. 82/3 (a) Sathankadu, Kaladipet, Madras-19. | Endrin emulsifiable concentrates. | IS : 1310-1958 Specification for endrin emulsifiable concentrates. |
| 21 | CM/L-464 24-10-1962 | 16-11-67 | 15-11-68 | M/s Geo Industries and Insecticides (India) Pvt. Ltd., Field No. 82/3 (a) Sathankadu, Kaladipet, Madras-19. | BHC water dispersible powder concentrates. | IS : 562-1962 Specification for BHC water dispersible powder concentrates (revised). |
| 22 | CM/L-467 30-10-1962 | 16-11-67 | 15-11-68 | M/s Shalimar Tar Products (1935) Ltd., 26 Lake Road, Bhandup, Bombay-78 having their office at 6 Lyons Range, Calcutta. | Bitumen felts for water-proofing and damp-proofing, type 3, grades 1 and 2. | IS : 1322-1959 Specification for bitumen felts for water-proofing and damp-proofing. |
| 23 | CM/L-470 30-10-1962 | 1-11-67 | 31-10-68 | M/s Hind Tin Industries, 107A, Raja Dinendra Street, Calcutta-6. | 18-litre square tins | IS : 916-1966 Specification for 18-litre square tins (revised). |
| 24 | CM/L-492 26-12-1962 | 1-12-67 | 30-11-68 | M/s Alma Electrical Corpn. (P) Ltd., Goria Mathurapur Road, Goria, 24 Parganas having their office at 2 India Exchange Place (Second Floor), Calcutta-1. | Metal clad switches, 15 amp, 250 volts, with MEM type fuse base and carrier. | IS : 1567-1960 Specification for metal clad switches (current rating not exceeding 100 amperes). |
| 25 | CM/L-564 19-7-1963 | 1-12-67 | 30-11-68 | M/s Associated Tube Wells (India) Pvt. Ltd., Modinagar having their office at 12 Scindia House, New Delhi. | Flushing cisterns, high level, 12.5 litres capacity and 15 litres capacity. | IS : 774-1964 Specification for flushing cisterns for water-closets and urinals (valveless siphonic type) (second revision). |

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| 26 | CM/L-589 14-10-1963 | 16-11-67 | 15-11-68 | M/s PVC Wires and Cables Pvt. Ltd., 1, Ishan Ghosh Road, Calcutta-8. | Type PVC insula- ted Cable | Voltage grade (i) Single (unsheathed) & 650/ 1100 Volts grade (ii) Flat twin with or with out earth continuity conductor (PVC sheathed) | Conductor (i) IS:694 (Part I) —1964 Spec- ification for PVC insulated cables with copper conductors (revised) Copper or aluminium only Copper (ii) IS:694 (Part II) —1964 Spec- ification for PVC insulated cables with aluminium conductors (revised). |
| 27 | CM/L-591 21-10-1963 | 16-11-67 | 15-11-68 | M/s Shalimar Tar Products (1935) Limited, 26 Lake Road, Bhandup Bombay-71 having their office at 16 Bank Street, Bombay-1 | Bitumen (Plastic) for water- proofing purposes. | IS:1580-1960 Specification for bitumen (plastic) for water- proofing purposes. | |
| 28 | CM/-592 21-10-1963 | 16-11-67 | 15-11-68 | M/s Shalimar Tar Products (1935) Limited, 26 Lake Road, Bhandup, Bombay-71 having their office at 16 Bank Street, Bombay—1. | Preformed fillers for expansion joint in concrete non-extrud- ing and resilient type (bitumen- pregnated fibre) | IS:1838-1961 Specification for preformed fillers for expansion joint in concrete non-extruding and resilient type (bitumen- impregnated fibre) | |
| 29 | CM/L-593 28-10-1963 | 16-11-67 | 15-11-68 | The Metal Box Co. of India Ltd, Jeppo, Mangalore, having their office at Barlow House, 599, Chowringhee Road, Calcutta-20 | 18-litre square tins | IS:916-1966 Specification for 18-litre square tins (revised). | |
| 30 | CM/-L-595 30-10-1963 | 1-12-67 | 30-11-68 | M/s Pesticides India, Udaisagar Road, Udaipur. | Endrin emulsifiable concentrates | IS:1310-1958 Specification for endrin emulsifiable concen- trates. | |
| 31 | CM/-L-597 30-10-1963 | 1-12-67 | 30-11-68 | M/s Camlin Private Limited, Kondivata, Near Marol Bazar, Andheri-Kurla Road, Bombay-59 having their office at 210 Lady Jamshedji Road, Bombay-16. | Ink, drawing, water-proof, black | IS:789-1955 Specification for ink, drawing, water-proof, black. | |

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| 32 | CM/L-598 7-11-1963 | 1-12-67 | 30-11-68 | M/s. Skytone Electricals (India), 43 Industrial Area, Faridabad having their Head Office at 2655 Sadar Thana Road, Delhi-6. | (1) Single core (unsheathed) PVC insulated cables, 250/ 440 and 650/1100 V with copper or aluminium cord; (2) Single core (PVC sheathed) PVC insulated cables, 250/ 440 V with copper or alu- minium conductors; (3) Single core (PVC sheathed; PVC insulated cables, 650/ 1100 V with copper conductors only and (4) Twin twisted (unsheathed) flexible cords, 250/440 V with copper conductors only. | (i) IS:694 (Part I)-1964 Specifica- tion for PVC insulated cables (for voltages up to 1100 V) with copper conductors (<i>revised</i>). (ii) IS:694 (Part II)-1964 Specifi- cation for PVC insulated cables (for voltages up to 1100 V) with aluminium con- ductors (<i>revised</i>). |
| 33 | CM/L-780 10-9-1964 | 16-11-67 | 15-11-68 | M/s. S.R. Sharma & Sons, 140 Raj Bahadur R.N. Guha Road, Dum Dum, Calcutta-28, having their office at 85 Netaji Subhas Road, Calcutta. | Brass ball valves (horizontal plunger type) 15 mm size. | IS:1703-1962 Specification for ball valves (horizontal plunger type) including floats for water supply purposes. |
| 34 | CM/L-800 12-10-1964 | 1-11-67 | 31-10-68 | M/s. Flintrock Products Pvt. Ltd. Belvedere Road, Mazagaon, Bombay-10. | DDT dusting powders | IS:564-1961 Specification for DDT dusting powders. |
| 35 | CM/L-801 20-10-1964 | 1-12-67 | 30-11-68 | M/s. Satellite Engineering Ltd., P.O. Maize Products, Kath- wada, Ahmedabad-2. | Starters for fluorescent lamps, 20/40/80 watts rating. | IS:2215-1963 Specification for starters for fluorescent lamps (<i>revised</i>). |
| 36 | CM/L-802 23-10-1964 | 16-11-67 | 15-11-68 | M/s. K. L. Malhotra Brothers, WX-83 Basti Nau, Jullundur City. | Badminton Racket frames of the following varieties : Grade I (i) Viking Malbro, fitted with steel shaft. (ii) Viking Malbro, fitted with wooden shaft (Champion Model). | IS:831-1966 Specification for badminton racket frames (<i>re- vised</i>). |

- (iii) The Rock, fitted with steel shaft.
(iv) Delux Malbro, fitted with wooden shaft (full overlays)

Grade 2

- (i) Blue Malbro (half overlays)
(ii) Master (half overlays).
(iii) Senorita (half overlays).

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| 37 | CM/L-823 2-11-1964 | 1-12-67 | 30-11-68 | M/s. Swadeshi Industries Ltd., 33 Netaji Subhas Road, Calcutta. | Structural steel (standard quality) for sections up to 25 mm dia or square and other sections of equivalent area. | IS:226-1962 Specification for structural steel (standard quality) (third revision). | for |
| 38 | CM/L-824 2-11-1964 | 1-12-67 | 30-11-68 | M/s. Swadeshi Industries Ltd., 33 Netaji Subhas Road, Calcutta. | Structural steel (ordinary quality) for sections up to 25 mm dia or square and other sections of equivalent area. | IS:1977-1962 Specification for structural steel (ordinary quality). | for |
| 39 | CM/L-831 2-11-1964 | 16-11-67 | 15-11-68 | M/s. Agarwal Hardware Works Private Ltd., 167, Chittaranjan Avenue, Calcutta. | Structural steel (standard quality), tested steel rounds up to 1" (25 mm) dia and flats up to 1" x 1/4" to 2" x 1/4" (25 mm x 6 mm to 50 mm x 12.7 mm) and sections of equivalent area. | IS:226-1962 Specification for structural steel (standard quality) (third revision). | for |
| 40 | CM/L-832 2-11-1964 | 16-11-67 | 15-11-68 | M/s Agarwal Hardware Works Pvt. Ltd, 167, Chittaranjan Avenue, Calcutta. | Structural steel (ordinary quality), tested steel rounds up to 1" (25 mm) dia and flats up to 1" x 1/4" to 2" x 1/2" (25 mm x 6 mm to 50 mm x 12.7 mm) and sections of equivalent area. | IS:1977-1962 Specification for structural steel (ordinary quality) | for |
| 41 | CM/L-834 9-11-1964 | 1-12-67 | 30-11-68 | M/s Special Steels Limited, Dattapara Road, Borivli (East), Bombay-92 | Steel-wire for the core of steel-cored aluminium conductors for overhead power transmission purposes | IS: 398-1961 Specification for hard-drawn stranded aluminium and steel-cored aluminium conductors for overhead power transmission purposes (revised) | for |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | |
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| 42 | CM/L-840 23-11-1964 | 1-12-67 | 30-11-68 | M/s Shamsher Sterling Cable Corpn. Ltd, Plot No. 7, S.S.I., Kiroli, Ghatkopar, Bombay-77. having their Regd office at Vaswani Mansions, Dinsha Vacha Road, Bombay-1. | <p><i>Type</i></p> <p><i>Voltage grade</i></p> <p><i>Conductor</i></p> <p>(a) <i>PVC insulated cables</i></p> <p>(i) Single core (unsheathed) 250/440V & 650/1100V</p> <p>(ii) Single core (PVC sheathed) 250/440V & 650/1100V</p> <p>(b) <i>PVC flexible Cords</i></p> <p>(iii) Twin twisted (unsheathed) 250/440 V</p> <p>(iv) PVC insulated and sheathed 250/440 V</p> | <p>Copper or Aluminium only</p> <p>Copper only</p> <p>Copper only</p> | <p>(i) IS: 694 (Part I)—1964 Specification for PVC insulated cables (for voltages up to 1100 V) with copper conductors (<i>revised</i>).</p> <p>(ii) IS: 694 (Part II)—1964 Specification for PVC insulated cables (for voltages up to 1100 V with aluminium conductors (<i>revised</i>).</p> |
| 43 | CM/L-873 28-11-1964 | 1-12-67 | 30-11-68 | M/s National Co. Ltd, Rajgung, Andul, Howrah, having their office at 18A Brabourne Road, Calcutta-1 | Jute hessian | IS: 2818-1964 Specification for Indian hessian. | |
| 44 | CM/L-874 28-11-1964 | 1-12-67 | 30-11-68 | M/s National Co. Ltd, Rajgung, Andul, Howrah, having their office at 18A Brabourne Road, Calcutta-1 | Jute sackings | <p>IS: 1943-1964 Specification for A-twill jute bags (<i>revised</i>).</p> <p>IS: 2874-1964 Specification for heavy cee jute bags.</p> <p>IS: 2875-1964 Specification for jute corn socks.</p> <p>IS: 2566-1965 Specification for B-twill jute bags (<i>revised</i>).</p> | |
| 45 | CM/L-875 28-11-1964 | 1-12-67 | 30-11-68 | M/s Angus Co. Ltd, P.O. Angus, Hooghly having their Office at 3 Clive Row, Calcutta-1 | Jute hessian | IS: 2818-1964 Specification for Indian hessian. | |

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| 46 | CM/L-876 28-II-1964 | 1-12-67 | 30-II-68 | M/s Angus Co. Ltd., P.O. Angus, Hooghly having their Office at 3, Clive Row, Calcutta-1 | Jute sackings] |
| 47 | CM/L-879 28-II-1964 | 1-12-67 | 30-II-68 | M/s Titaghur Jute Factory Co. Ltd., P.O. Titaghur, 24 Parganas having their Office at 3, Clive Row, Calcutta-1 | Jute hessian |
| 48 | CM/L-880 28-II-1964 | 1-12-67 | 30-II-68 | M/s Titaghur Jute Factory Co. Ltd., P.O. Titaghur, 24 Parganas having their Office at 3, Clive Row, Calcutta-1 | Jute sackings |
| 49 | CM/L-881 28-II-1964 | 1-12-67 | 30-II-68 | M/s Victoria Jute Co. Ltd., P.O. Telnipara, Distt Hooghly, having their Office at 3, Clive Row, Calcutta-1 | Jute hessian |
| 50 | CM/L-882 28-II-1964 | 1-12-67 | 30-II-68 | M/s Victoria Jute Co. Ltd., P.O. Telnipara, Distt Hooghly, having their Office at 3, Clive Row, Calcutta-1 | Jute sackings |
| 51 | CM/L-893 28-II-1964 | 1-12-67 | 30-II-68 | M/s Hukumchand Jute Mills Ltd., 47, Ghoshpara Road, Halisahar having their Office at 9, Bra- bourne Road, Calcutta-1 | Jute hessian |

IS: 1943-1964 Specification for
A-twill jute bags (*revised*)
IS: 2874-1964 Specification for
heavy cee jute bags
IS: 2875-1964 Specification for
jute corn sacks
IS: 2566-1965 Specification for
B-twill jute bags (*revised*)
IS: 3794-1966 Specification for
Liverpool twill (L-twill) bags
IS: 2818-1964 Specification for
Indian hessian

IS: 1943-1964 Specification for
A-Twill jute bags (*revised*)
IS: 2874-1964 Specification for
heavy cee jute bags
IS: 2875-1964 Specification for
jute corn sacks
IS: 2566-1965 Specification for B-
twill jute bags (*revised*)
IS: 3794-1966 Specification for
Liverpool twill (L-twill) bags
IS: 2818-1964 Specification for
Indian hessian

IS: 1943-1964 Specification for
A-twill jute bags (*revised*)
IS: 2874-1964 Specification for
heavy cee jute bags
IS: 2875-1964 Specification for
jute corn sacks
IS: 2566-1965 Specification for
B-twill bags (*revised*)
IS: 3794-1966 Specification for
Liverpool twill (L-twill) bags
IS: 2818-1964 Specification for
Indian hessian

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| 12 | M/L-894 28-11-1964 | 1-12-67 | 30-11-68 | M/s Hukamchand Jute Mills Ltd., Jute sackings 47, Ghoshpara Road, Halisahar having their Office at 9, Brabourne Road, Calcutta-I | IS : 1943-1964 Specification for A-twill jute bags (revised) IS : 2874-1964 Specification for heavy cee jute bags IS : 2875-1964 Specification for jute corn sacks IS : 2566-1965 Specification for B-twill jute bags (revised) IS : 3794-1966 Specification for Liverpool twill (L-twill) bags |
| 13 | M/L-895 28-11-1964 | 1-12-67 | 30-11-68 | M/s Anglo-India Jute Mills Co., Jute hessian Ltd., (Lower Mill), P. O. Jagatdal, 24 Parganas having their Office at 31, Netaji Subhas Road, Calcutta-I | IS : 2818-1964 Specification for Indian hessian |
| 14 | M/L-896 28-11-1964 | 1-12-67 | 30-11-68 | M/s Anglo-India Jute Mills Co. Jute sackings Ltd., (Lower Mill), P. O. Jagatdal, 24 Parganas having their Office at 31, Netaji Subhas Road, Cal- cutta-I. | IS : 1943-1964 Specification for A-twill jute bags (revised) IS : 2874-1964 Specification for heavy cee jute bags IS : 2874-1964 Specification for jute corn sacks IS : 2566-1965 Specification for B-twill jute bags (revised) IS : 3794-1966 Specification for Liverpool twill (L-twill) bags |
| 15 | M/L-897 28-11-1964 | 1-12-67 | 30-11-68 | M/s Anglo-India Jute Mills Co. Jute hessian Ltd., (Middle Mill), P.O. Jagat- dal, 24 Parganas having their Office at 31 Netaji Subhas Road, Calcutta-I. | IS : 2818-1964 Specification for Indian hessian. |

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| 56 | CM/L-898 28-11-1964 | 1-12-67 | 30-11-68 | M/s Anglo-India Jute Mills Co. Ltd., (Middle Mill), P. O. Jagatdal, 24 Parganas having their Office at 31 Netaji Subhas Road, Calcutta-I | Jute sackings | IS : 1943-1964 Specification for A-twill jute bags (revised) IS : 2874-1964 Specification for heavy cee jute bags IS : 2875-1964 Specification for jute corn sacks IS : 2566-1965 Specification for B-twill jute bags (revised) IS : 3794-1966 Specification for Liverpool twill (L-twill) bags |
| 57 | CM/L-903 28-11-1964 | 1-12-67 | 30-11-68 | M/s Gagalbhai Jute Mills (P) Ltd., Sijberia, P. O. Ulberia, Howrah having their Office, at 18, Netaji Subhas Road, Calcutta-I | Jute hessian | IS : 2818-1964 Specification for Indian hessian |
| 58 | CM/L-904 28-11-1964 | 1-12-67 | 30-11-68 | M/s Gagalbhai Jute Mills (P) Ltd., Sijberia, P. O. Ulberia Howrah having their Office at 18, Netaji Subhas Road, Calcutta-I | Jute sackings | IS : 1943-1964 Specification for A-twill jute bags (revised) IS : 2874-1964 Specification for heavy cee jute bags IS : 2875-1964 Specification for jute corn sacks IS : 2566-1965 Specification for B-twill jute bags (revised) IS : 3794-1966 Specification for Liverpool twill (L-twill) bags |
| 59 | CM/L-911 28-11-1964 | 1-12-67 | 30-11-68 | M/s Shree Gourishankar Jute Mills (P) Ltd., Ghoshpara Road, P. O. Garulia, Sumnagar, 24 Parganas having their Office at 10, Clive Row, Calcutta-I | Jute hessian | IS : 2818-1964 Specification for Indian hessian |
| 60 | CM/L-912 28-11-1964 | 1-12-67 | 30-11-68 | M/s Shree Gourishankar Jute Mills (P) Ltd., Ghoshpara Road, P.O. Garulia, Sumnagar, 24 Parganas having their Office at 10, Clive Row, Calcutta-I | Jute sackings | IS : 1943-1964 Specification for A-twill jute bags (revised) IS : 2874-1964 Specification for heavy cee jute bags IS : 2875-1964 Specification for jute corn sacks IS : 2566-1965 Specification for B-twill jute bags (revised) |

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| 61 | CM/L-927 28-11-1964 | 1-12-67 | 30-11-68 | M/s Champdany Jute Co. Ltd., (Wellington Jute), G. T. Road, Rishra, Hooghly, having their Office at 2, Netaji Subhas Road, Calcutta-1 | Jute hessian | IS : 2818-1964 Specification for Indian hessian |
| 62 | CM/L-928 28-11-1964 | 1-12-67 | 30-11-68 | M/s Champdany Jute Co. Ltd., (Wellington Jute), G. T. Road, Rishra, Hooghly, having their Office at 2, Netaji Subhas Road, Calcutta-1 | Jute sacking | IS : 1943-1964 Specification for A-twill jute bags (<i>revised</i>) IS : 2874-1964 Specification for heavy cee jute bags IS : 2875-1964 Specification for jute corn sacks IS : 2566-1965 Specification for B-twill jute bags (<i>revised</i>) IS : 3794-1966 Specification for Liverpool twill (L-twill) bags |
| 63 | CM/L-939 28-11-1964 | 1-12-67 | 30-11-68 | The General Industrial Society Ltd., Gondalpara, Hooghly hav- ing their Office at 15, India Ex- change Place, Calcutta-1 | Jute hessian | IS : 2818-1964 Specification for Indian hessian |
| 64 | CM/L-940 28-11-1964 | 1-12-67 | 30-11-68 | The General Industrial Society Ltd., Gondalpara, Hooghly having their Office at 15, India Exchange Place, Calcutta-1 | Jute sackings | IS : 1943-1964 Specification for A-twill jute bags (<i>revised</i>) IS : 2874-1964 Specification for heavy cee jute bags IS : 2875-1964 Specification for jute corn sacks IS : 2566-1966 Specification for B-twill jute bags (<i>revised</i>) IS : 3794-1966 Specification for Liverpool twill (L-twill) bags |
| 65 | CM/L 955 28-11-1964 | 1-12-67 | 30-11-68 | M/s Bharat Jute Mills, Ltd., Dasnagore, Howrah having their Office at 29 Strand Road, Cal- cutta-1 | Jute hessian | IS : 2818-1964 Specification for Indian hessian. |

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| 66 | CM/L-956 28-11-1964 | 1-12-67 | 30-11-68 | M/s. Bharat Jute Mills Ltd, Daynagore, Howrah having their Office at 29, Strand Road, Calcutta-1. | Jute sackings | IS : 1943:-1964 Specification for A-twill jute bags (<i>revised</i>). IS : 2874-1964 Specification for heavy cee jute bags. IS : 2875-1964 Specification for jute corn sacks. IS : 2566-1965 Specification for B-twill jute bags (<i>revised</i>). IS : 2818-1964 Specification for Indian hessian. |
| 67 | CM/L-957 28-11-1964 | 1-12-67 | 30-11-68 | M/s Prabhartak Jute Mills Ltd., Kamarhatti, B. T. Road, 24, Parganas having their Office at 5, Synagogue Street, Calcutta-1. | Jute hessian. | |
| 68 | CM/L-958 28-11-1964 | 1-12-67 | 30-11-68 | M/s Prabhartak Jute Mills Ltd. Kamarhatti, B. T. Road, 24, Parganas having their Office at 5, Synagogue Street, Calcutta-1. | Jute sackings | IS : 1943:1964 Specification for A-twill jute bags (<i>revised</i>). IS : 2874-1964 Specification for heavy cee jute bags. IS : 2875-1964 Specification for jute corn sacks. IS : 2556-1965 Specification for B-twill jute bags (<i>revised</i>). IS : 3794-1966 Specification for Liverpool twill (L-twill) bags IS : 2818-1964 Specification for Indian hessian. |
| 69 | CM/L-959 28-11-1964 | 1-12-67 | 30-11-68 | M/s. Reliance Jute Mills Co. Ltd., Rly. Station Kaniknarras, P.O. Bhatpara, 24, Parganas having their Office at 9, Brabourne Road, Calcutta-1. | Jute hessian. | |
| 70 | CM/L-960 28-11-1964 | 1-12-67 | 30-11-68 | M/s. Reliance Jute Mills Co. Ltd., Rly. Station Kankinarras, P.O. Bhatpara, 24, Parganas having their Office at 9, Brabourne Road, Calcutta-1. | Jute packings. | IS: 1943-1964 Specification for A-twill jute bags (<i>revised</i>). IS: 2874-1964 Specification for heavy cee jute bags. IS: 2875-1964 Specification for jute corn sacks. IS: 2566-1965 Specification for B-twill jute bags (<i>revised</i>). IS 3794-1966 Specification for Liverpool twill (L-twill) bags. |
| 71 | CM/L-961 28-11-1964 | 1-12-67 | 30-11-68 | M/s. Kanoria Co. Ltd., Chengail Rly. Station, P.O. Chakasi, Howrah having their office at 18, Mullick Street, Calcutta-7. | Jute hessian | IS: 2818-1964 Specification for Indian hessian. |

| | (3) | (4) | (5) | (6) | (7) | |
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| 72 | CM/L-962 28-11-1964 | 11-12-67 | 30-11-68 | M.s. Kaneria Co. Ltd., Chengal Rly. Station, P.O. Chakasi, Howrah having their Office at 18, Mullick Street, Calcutta-7. | Jute sackings. IS: 1943-1964 Specification for A-twill jute bags (<i>revised</i>). IS : 2874-1964 Specification for heavy cee jute bags. IS: 2875-1964 Specification for jute corn sacks. IS: 2566-1965 Specification for B-twill jute bags (<i>revised</i>). | |
| 73 | CM/L-1126 12-2-1965 | 16-11-67 | 15-11-68 | The Fort William Co. Ltd. (Steel Wire & Rope Division), 6/A, G.T. Road, Konnagar, Distt. Hooghly, West Bengal having their Regd. office at 14, Netaji Subhas Road, Calcutta-1. | (i) Steel wire ropes for general engineering purposes. (ii) Round strand galvanised steel wire ropes for shipping purposes. | (i) IS: 2266-1963 Specification for steel wire ropes for general engineering purposes. (ii) IS: 2581-1963 Specification for round strand galvanised steel wire ropes for shipping purposes. |
| 74 | CM/L-1158 28-10-1965 | 1-11-67 | 31-10-68 | M.s. Kanpur Pesticides, Magarware, Distt. Unnao having their Office at 16/78, Civil Lines, Kanpur. | BHC dusting powders. | IS: 561-1962 Specification for BHC dusting powders. |
| 75 | CM/L-1160 20-10-1965 | 16-11-67 | 15-11-68 | M.s. Bharat Pulverising Mills Pvt. Ltd., Hexamar House, 28, Sayani Road, Bombay-28. | Malathion dusting powders. | IS: 2568-1963 Specification for malathion dusting powders. |
| 76 | CM/L-1163 4-11-1965 | 16-11-67 | 15-11-68 | The Leads Meter Mfg. Co. Ltd., Mathuradas Mills Compound, Delisle Road, Lower Parel, Bombay-13 having their Office at gateway Building, Apollo Bunder Bombay-1. | Water meters (domestic type). 15 mm size. | IS: 779-1965 Specification for water meters (domestic type) (<i>second revision</i>). |
| 77 | CM/L-1342 30-9-1966 | 1-12-67 | 30-11-68 | M/s. Swan India Private Ltd., 12/1, Mathura Road, P.O. Amar Nagar, Faridabad. | Dye based fountain pen inks (blue, green and red). | IS: 1221-1957 Specification for fountain pen inks (blue, green, violet, black and red). |

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| 78 | M/L-1 358 30-11-1966 | 1-12-67 | 30-11-68 | M/s. Shamsher Sterling Cable Corpn. Ltd., Plot No. 7, S.S.I. Kiroi, Ghatkopar, Bombay-77 having their Regd. Office at Vaswani Mansions, Dinsha Vacha Road, Bomay-I. | Weather proof polythene insulated, taped, braided and compounded cables with aluminium conductors of the following types : | IS: 3035 (Part II)-1965 Specification for thermo-plastic insulated weather-proof cables, polythene insulated, taped, braided and compounded. |
| | | | | | (i) Single core, 250/440 V grade. | |
| | | | | | (ii) Twin core, 250/440 V grade; and | |
| | | | | | (iii) Single core, 650/1 100 Volts. grade | |
| 79 | M/L-1359 30-11-1966 | 1-12-67 | 30-11-68 | M/s. Skytone Electricals (India), 43, Industrial Area, Faridabad having their Head Office at 2655, Sadar Thana Road, Delhi-6. | Weatherproof polythene : insulated, taped, braided and compounded cables with aluminium conductors of the following :- | IS: 3035 (Part II)-1965 Specification for thermoplastic insulated weather-proof cables, polythene insulated, taped, braided and compounded. |
| | | | | | (i) Single core, 250/440 V grade; | |
| | | | | | (ii) Single core, 650/1100 V grade; | |
| | | | | | (iii) Twin core, 250/440 V grade. | |

[No. MD/33:16/A.]
(Dr.) SADGOPAL,
Dy. Director

